



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

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COMMITTEE AGAINST TORTURE

Thirty-sixth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 723rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 19 May 2006, at 10 a.m.

Chairperson: Mr. MAVROMMATIS

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* The summary record of the closed part of the meeting appears as document CAT/C/SR.723/Add.1.

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The meeting was called to order at 10.10 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Draft joint statement on the occasion of the United Nations International Day in Support of Victims of Torture

1. The CHAIRPERSON read out the following draft joint statement and invited Committee members to comment on it:

1. The United Nations Committee against Torture, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment, the Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture and the United Nations High Commissioner for Human Rights make the following statement to commemorate the United Nations International Day in Support of Victims of Torture:

2. The total ban on torture had been firmly entrenched since the end of the Second World War and justification of its use was seen as anathema. Yet recent developments over the past few years have proved that the consensus around the prohibition of torture is being tested. In fact, many Member States of the United Nations blatantly contravene this prohibition. Torture continues to be inflicted at the hands of Governments and their agents, and increasingly on their behalf, through the practices of “relocation” and “outsourcing” of torture. We would like to express our serious concern at the number of reliable reports detailing the prevalence of torture around the world.

3. Today, it is clear that this cornerstone of international human rights law is under unprecedented attack. In many States, including democratic ones, adherence to human rights standards as well as the principles and procedures underpinning the rule of law are being questioned or bypassed on the grounds that established rules no longer apply in our current geo-political climate. Despite the availability of a wide range of safeguards to prevent torture, many States have either not incorporated them in their legislation, or if they have, do not respect them in practice.

4. Too many democratic Governments are engaging in activities shrouded in secrecy, effectively curtailing examination and debate, and demonstrating a tendency to avoid judicial scrutiny. Many of the legal and practical safeguards available to prevent torture, including regular and independent monitoring of detention centres, are also being disregarded. Concrete steps should be taken, including mandatory videotaping, to protect against the use of torture in interrogations and to ensure that torture does not taint the judicial process.

5. The potential erosion of the rule of law in general, and of the ban on torture in particular, is also evident when States who are fully aware of their obligation not to send suspects to countries where they may be tortured, seek formal guarantees that torture, ill-treatment or the death penalty will not be inflicted by the proposed receiving State and will be afforded the right to a fair trial.

6. Such assurances do not provide adequate protection against torture and ill-treatment, and we have seen evidence that post-return monitoring mechanisms have been ineffective in protecting against torture and as a mechanism of accountability. Nor do these guarantees nullify the obligations of non-refoulement, which requires that no individual shall be returned to a country where they would be at risk of torture, as is clearly articulated in numerous international instruments and human rights treaties. We call on Governments to diligently observe this principle, regardless of the legal status of the individual in question.

7. Governments unquestionably have the right and the duty to protect their citizens. Imminent or clear danger permits limitations on certain rights. The right to be free from torture and cruel, inhuman or degrading treatment is not one of these. This right must not be subject to any limitation, anywhere, under any condition.

8. In light of these concerns, we recall that the non-derogable nature of torture is enshrined in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and in other international and regional human rights instruments. States are required under customary and treaty law to take effective legislative, administrative, judicial or other measures to prevent, investigate, prosecute and punish acts of torture committed in any territory under their jurisdiction. We call for the universal ratification of the Convention against Torture and its Optional Protocol and urge States parties to the Convention to make the declaration under article 22 providing for individual communications. We would also like to emphasize the importance of establishing and strengthening national preventive mechanisms that are empowered to undertake independent visits to places of detention as required by the Protocol.

9. Finally, as we commemorate the twenty-fifth anniversary of the United Nations Voluntary Fund for Victims of Torture, we would like to focus our attention on the millions of victims who have suffered as a result of torture, including gender-based violence inflicted on women during conflicts. We wish to remind Governments of their obligations to ensure that all victims have access to redress and have an enforceable right to seek and obtain fair and adequate compensation, including the means for comprehensive rehabilitative services. In this regard, we would like to pay tribute to the organizations around the world which provide these essential services to victims and their families. We are also grateful to the donors whose support enables the Fund to provide financial assistance to organizations and torture victims in need. We call on all members of the international community, private entities and individuals to contribute generously to the Fund to ensure the continued availability of services for torture victims and their families.

Paragraph 1

2. Paragraph 1 was adopted.

Paragraph 2

3. Ms. GAER proposed that in the first sentence the words “has been” should be replaced by “is”, the phrase “since the end of the Second World War” should be deleted, and the words “was seen as” replaced by “is”. In the fourth sentence, she proposed that the phrase “the practices of ‘relocation’ and ‘outsourcing’ of torture” be replaced by “many practices in violation of national and international law”.

4. Paragraph 2, as amended, was adopted.

Paragraph 3

5. Ms. GAER proposed that in the first sentence the phrase “it is clear that this” should be replaced by the word “a” and that the word “unprecedented” should be deleted.

6. Paragraph 3, as amended, was adopted.

Paragraph 4

7. Ms. SVEAASS proposed that in the first sentence the words “Too many” should be replaced by “Many”.

8. Paragraph 4, as amended, was adopted.

Paragraph 5

9. Ms. GAER proposed deleting the word “formal”.

10. Paragraph 5, as amended, was adopted.

Paragraph 6

11. Ms. GAER proposed that in the first sentence the phrase “always, in themselves,” should be inserted before the word “provide”, the phrase “we have seen evidence that” should be deleted, and the word “sometimes” should be inserted before “been effective”. In the second sentence, the words “Nor do these guarantees” should be replaced with “These guarantees should never”.

12. Ms. SVEAASS noted that in the second sentence the word “they” should be replaced by “he or she”.

13. Paragraph 6, as amended, was adopted.

Paragraph 7

14. Ms. GAER proposed that in the first sentence the phrase “the right and the duty” should be replaced by “a duty”, and that in the second sentence the word “human” should be inserted before “rights”.

15. Paragraph 7, as amended, was adopted.

Paragraph 8

16. Paragraph 8 was adopted.

Paragraph 9

17. The CHAIRPERSON noted that the reference to “gender-based violence” reflected the fact that the United Nations Voluntary Fund for Victims of Torture did not cover, and had never compensated for, domestic violence.

18. Ms. GAER proposed that in the second sentence the words “and others” should be inserted after “Governments” and that the word “such” should be added before “victims”.

19. Paragraph 9, as amended, was adopted.

20. The joint statement as a whole, as amended, was adopted.

21. Mr. MARIÑO MENÉNDEZ, while accepting that the adopted text was well drafted, hoped that it would in future be drawn up by means of a more open procedure.

22. Mr. WANG Xuexian thought that the joint statement should focus more in future on the concerns raised by the Committee and the concluding observations issued by it in the year in question. Its communications, which tended to repeat themselves, should be geared to achieving a greater impact among the States parties.

23. The CHAIRPERSON suggested that the secretariat should, as from the next session, make provision for a half-hour initial discussion on the contents of the joint statement to ensure that it reflected the ideas of the Committee more accurately.

Draft annual report of the Committee to the General Assembly
(CAT/C/36/CRP.1/Add.1-8, CAT/C/36/CRP.2/Add.1-7)

24. The CHAIRPERSON invited the Committee to consider its draft annual report, covering the work of its thirty-fifth and thirty-sixth sessions.

Chapter I. Organizational and other matters (CAT/C/36/ CRP.1/Add.1)

25. Ms. GAER, Rapporteur, said that paragraph 10, as currently drafted, was misleading. It should be redrafted to make it clear that the time normally allocated to the pre-sessional working group had been used by the Committee to meet in plenary in order to address the growing backlog in its consideration of State party reports. She further observed that paragraph 11 did not mention all the meetings in which Committee members had participated. It would need to be amended accordingly.

26. The CHAIRPERSON said he took it that the Committee wished to adopt chapter I subject to the amendments proposed by Ms. Gaer.

27. It was so decided.

Chapter II. Submission of reports by States parties under article 19 of the Convention (CAT/C/36/CRP.1/Add.2)

28. Ms. GAER said that several errors in the list of States parties whose reports were overdue needed to be rectified and the footnote should be redrafted for the sake of clarity. In paragraph 4, the names of the two Committee members should be corrected to reflect the situation as of January 2006.
29. Mr. MARIÑO MENÉNDEZ said he did not consider it necessary to include two dates in cases where a new date had been agreed for submission of a State party's report. The new dates would suffice.
30. Ms. GAER said that the Committee had certain legal obligations to identify the original dates for submission as well as the new ones.
31. The CHAIRPERSON suggested that the secretariat should look into the points raised and make any necessary amendments.
32. It was so decided.

Chapter III. Consideration of reports submitted by States parties under article 19 of the Convention (CAT/C/36/CRP.1/Add.3)

33. Ms. GAER, referring to paragraph 3, proposed that a list of the representatives of States parties who had attended the meetings at which their reports had been considered should be appended to the annual report in order to give the States parties the credit they deserved. She also proposed that in paragraph 6 mention should be made of the new format for conclusions and recommendations adopted by the Committee as a result of consultations held at the recent inter-committee meeting of human rights treaty bodies; the date on which the new format had been introduced should also be mentioned.
34. The CHAIRPERSON said he took it that the Committee wished to adopt chapter III subject to the amendments proposed by Ms. Gaer.
35. It was so decided.

Chapter IV. Follow-up on conclusions and recommendations on States parties' reports (CAT/C/36/CRP.1/Add.4)

36. Ms. GAER, speaking as rapporteur on follow-up to the Committee's conclusions and recommendations, recalled that at its thirtieth session, in May 2003, the Committee had decided to identify, following its consideration of a State party's report, certain points on which information should be provided by the State party within one year. At the May 2003 session, of the seven State parties whose reports had been considered, only one State party had been identified as requiring follow-up. Since then, around 40 States parties had been identified as requiring follow-up. Of the 16 States parties reviewed prior to May 2004, 9 had submitted information and the Committee had sent reminders to the others. Of the States parties reviewed thereafter, 14 were still within the one-year deadline for reporting and 25 had been requested to

submit additional information. In total, more than half the States parties had submitted fairly detailed replies. However, they had not always provided the type of information requested, for instance on access to legal and medical assistance, which meant that she needed to make further inquiries. Between May 2004 and May 2005, the reports of nine more States parties had been considered and follow-up information had been received promptly from the three States parties dealt with at the November 2004 session - Argentina, Greece and the United Kingdom.

37. The replies received from States parties were translated, if necessary, and posted on the Committee's website, although the Committee's original letters requesting information were not made public. In two cases, information had been received from NGOs; in one case, the State party had failed to reply to the Committee. Azerbaijan, the Czech Republic, Latvia, Lithuania, Morocco and Yemen had submitted substantive information and received a follow-up letter from the Committee. Follow-up letters would also be sent to Germany and New Zealand shortly. She would welcome comments from the rapporteurs for the States parties concerned.

38. Ms. BELMIR informed the Committee that it would shortly be receiving information from Morocco on the incorporation of the definition of the offence of torture into its Criminal Code and the withdrawal of its reservations regarding articles 21 and 22 of the Convention. She thanked Ms. Gaer for her efforts but suggested that a more flexible approach to follow-up should be considered, including greater contact by e-mail and telephone.

39. Mr. MARIÑO MENÉNDEZ said that the follow-up process had just got under way and entailed a good deal of work. It would therefore be useful to see how such work could be rationalized. For instance, perhaps a list of the States parties which had replied, indicating where their replies could be found, should be posted on the Committee's website.

40. Ms. SVEAASS stressed the importance of actively pursuing follow-up to the Committee's conclusions and recommendations.

41. Ms. GAER said she would endeavour to report on follow-up earlier at the next session. One issue that warranted consideration was how to make the information posted on the website more accessible and easier to handle. At present the website was exclusively for the use of Committee members and the secretariat. She would like to find a way of incorporating material submitted by NGOs, since she welcomed input from all sources.

42. The CHAIRPERSON said that a summary of the rapporteur's oral report would be included in chapter IV of the Committee's annual report.

43. On that understanding, chapter IV was adopted.

Chapter V. Activities of the Committee under article 20 of the Convention (CAT/C/36/CRP.1/Add.5)

44. Ms. GAER, said that mention should be made of the fact that the Committee had discussed a number of cases under article 20 during the current session, and that Peru - a country examined at an earlier session under article 20 - had submitted a report under article 19.

45. The CHAIRPERSON said he took it that the Committee wished to adopt chapter V subject to the amendments proposed by Ms. Gaer.

46. It was so decided.

Chapter VI. Consideration of complaints under article 22 of the Convention
(CAT/C/36/CRP.1/Add.6)

47. Ms. GAER proposed that attention should be drawn in the introductory part entitled "Follow-up activities" to recent developments in the Dadar v. Canada case, which were a cause of concern to the Committee.

48. The CHAIRPERSON said he took it that the Committee wished to adopt chapter VI subject to the amendment proposed by Ms. Gaer.

49. It was so decided.

Chapter VII. Future meetings of the Committee (CAT/C/36/CRP.1/Add.7)

50. Ms. GAER wondered whether it was appropriate to specify the dates of future pre-sessional working groups.

51. Mr. MARIÑO MENÉNDEZ said that there would be no further pre-sessional working group in 2006, since the additional week would be used for plenary meetings. Moreover, it was not known what the situation would be in 2007 and 2008.

52. Ms. MORALES (Secretary of the Committee) said that the dates given for future meetings of the Committee were tentative pending a decision on the dates of the Human Rights Council and the subsequent availability of conference services and facilities for treaty bodies. More information on the subject should be available by the Committee's November 2006 session.

53. The CHAIRPERSON suggested that only those dates that could be considered definitive should be mentioned and that chapter VII should be redrafted along those lines.

54. It was so decided.

Chapter VIII. Adoption of the annual report of the Committee on its activities
(CAT/C/36/CRP.1/Add.8)

55. Chapter VIII was adopted.

Annexes 1 to III (CAT/C/36/CRP.2/Add.1-3)

56. Annexes 1 to III were adopted.

Annex IV (CAT/C/36/CRP.2/Add.4)

57. Ms. SVEAASS proposed that a footnote should be added indicating that Mr. Prado Vallejo was no longer a member of the Committee and had not been replaced.

58. The CHAIRPERSON said he took it that the Committee wished to adopt annex IV subject to the amendment proposed by Ms. Sveaass.

59. It was so decided.

Annex V (CAT/C/36/CRP.2/Add.5)

60. Mr. MARIÑO MENÉNDEZ pointed out that as a result of Mr. Prado Vallejo's absence, the list of country and alternate rapporteurs would need to be revised.

61. The CHAIRPERSON said he would take it that the Committee wished to adopt Annex V on the understanding that the list would be revised.

62. It was so decided.

Annex VI (CAT/C/36/CRP.2/Add.6)

63. Ms. GAER proposed the addition of a paragraph setting forth the substantive arguments for the extension of the Committee's session on a permanent basis.

64. The CHAIRPERSON said he took it that the Committee wished to adopt annex VI subject to the amendment proposed by Ms. Gaer.

65. It was so decided.

Annex VII (CAT/C/36/CRP.2/Add.7)

66. Annex VII was adopted.

67. The draft annual report of the Committee to the General Assembly as a whole, as orally amended and subject to editorial changes was adopted.

The public part of the meeting was suspended at 11.15 a.m. and resumed at 1.05 p.m.

CLOSURE OF THE SESSION

68. After the customary exchange of courtesies, the CHAIRPERSON declared the thirty-sixth session of the Committee against Torture closed.

The meeting rose at 1.10 p.m.