



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

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COMMITTEE AGAINST TORTURE

Forty-second session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 866th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 27 April 2009, at 10 a.m.

Chairperson: Mr. GROSSMAN

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* The summary record of the closed part of the meeting appears as document CAT/C/SR.
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The meeting was called to order at 10.15 a.m.

OPENING OF THE SESSION BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL (item 1 of the provisional agenda)

1. Ms. PILLAY (United Nations High Commissioner for Human Rights), speaking on behalf of the Secretary-General, declared open the forty-second session of the Committee against Torture and informed the Committee of developments relating to the human rights treaties and their monitoring bodies since the previous session in November 2008.
2. On 10 December 2008, the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights, the General Assembly had adopted by consensus the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which established a procedure for individual complaints, inquiries and inter-State communications concerning violations of Covenant rights. The need for such a Protocol had been discussed for almost 20 years before it had been drafted by a working group established by the Human Rights Council in June 2006.
3. The first 12 members of the Committee on the Rights of Persons with Disabilities had been elected at the first Conference of the States parties to the Convention on the Rights of Persons with Disabilities in November 2008 and the Committee had met for the first time in February 2009. As it had been unable to agree on what constituted an absolute majority, it had opted for a system of rotating chairpersons. The Committee was also discussing the possibility of amending its rules of procedure, a step that the United Nations Legal Counsel had advised against. However, collaboration with the Committee against Torture and other United Nations entities and experts had been initiated with the adoption of the Joint Statement on the occasion of the United Nations International Day in Support of Victims of Torture.
4. The Committee against Torture had been represented at the eighth Inter-Committee Meeting in December 2008 by Mr. Mariño Menéndez and Mr. Wang Xuexian. The Meeting had discussed the harmonization of working methods, focusing on reporting guidelines, follow-up to concluding observations and the universal periodic review (UPR) mechanism of the Human Rights Council. The possibility of enhancing the Meeting's decision-making role had also been explored. The Meeting had proposed the establishment of a working group or task force to identify best practices and to promote harmonization in the area of follow-up to concluding observations. The treaty bodies had a crucial role to play in that process, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) would step up its efforts to facilitate the implementation of their recommendations at the national level and to promote awareness of the treaty body system.
5. The tenth session of the Human Rights Council had been held in March 2009. Three special sessions had also been convened: a session on the human rights situation in the east of the Democratic Republic of the Congo on 29 November 2008; a session on Gaza on 9 January 2009; and a session on the impact of the economic and financial crises on the effective enjoyment of human rights on 20 February 2009.
6. The fourth session of the UPR mechanism had been held in February 2009. Delegations from 2 of the 64 countries reviewed to date, the Philippines and Israel, would be appearing

before the Committee against Torture at its current session. A further three States parties whose reports were to be considered at the current session - Chad, Chile and New Zealand - would also shortly be reviewed under the mechanism.

7. The previous week the Durban Review Conference had adopted an “outcome document” which contained carefully-worded language and sent strong signals that would help the international community to combat all manifestations of racism and extremism. It provided appropriate answers to the misinformation and misunderstandings that had clouded the preparatory process and prompted a number of countries to stay away from the Conference. She had been critical of that position. In the meantime, one or two of the absentee States had publicly indicated their support for the outcome document and she hoped that some more European States would shortly follow suit.

8. Rwanda had become the 146th State party to the Convention against Torture on 15 December 2008. There were now 64 States that recognized the Committee’s competence to deal with individual complaints, the most recent being Kazakhstan. Montenegro had ratified the Optional Protocol to the Convention on 6 March 2009, bringing the number of States parties to 46. The membership of the Subcommittee on Prevention of Torture would be increased to 25 after the fiftieth ratification. At meetings with high-level representatives of Governments, she continued to urge ratification of all treaties.

9. Seven States had submitted reports since the Committee’s previous session: Albania, Austria, Cameroon, Jordan, Liechtenstein, Slovenia and the Syrian Arab Republic. The latter State party had submitted its report following the Committee’s decision to send reminders to States parties whose reports were long overdue. In addition to the seven reports to be considered at the current session (Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines), there were now 16 reports pending consideration.

10. The Committee would also continue its work under articles 20 and 22 of the Convention at the current session, and adopt lists of issues concerning periodic reports to be considered at its next session and States parties that had not yet submitted their periodic reports. It would meet with representatives of United Nations agencies and of national human rights institutions and NGOs from countries whose reports it would be considering. Follow-up to concluding observations and to individual communications would also be discussed.

11. She understood that the Committee would shortly begin to consider a preliminary draft version of revised rules of procedure and that it expected to complete revised treaty-specific reporting guidelines at its next session. The Committee on the Elimination of Racial Discrimination, the Committee on Migrant Workers, the Committee on the Elimination of Discrimination against Women, and the Committee on Economic, Social and Cultural Rights had already adopted their guidelines, and the Human Rights Committee and the Committee on the Rights of the Child were still working on theirs.

12. In the light of the Committee’s growing workload and its new procedures, she welcomed the General Assembly’s approval of its request for additional meeting time during the next biennium. She assured the Committee of the full support of the OHCHR secretariat. She was also personally prepared to assist it in identifying long-term solutions to its workload difficulties and would welcome the Committee’s suggestions in that regard.

13. The CHAIRPERSON said that the legitimacy of the treaty bodies depended to a large extent on the harmonization of working methods and exchanges of information among them.

14. The issue of resources was a perennial problem for the Committee. For instance, it would have to prepare lists of issues for 22 States parties in 2011, an impossible task under the current circumstances. The Committee's legitimacy would be undermined if it delayed the consideration of a State party's initial or periodic report. The High Commissioner's backing was therefore crucial, as was the stability of secretariat staff support.

15. Mr. MARIÑO MENÉNDEZ commented on a suggestion that the Committee's revised rules of procedure should include a reference to decisions by the Annual Meeting of Chairpersons of Human Rights Treaty Bodies and the Inter-Committee Meeting. The last Inter-Committee Meeting had considered a proposal from OHCHR that Inter-Committee Meeting decisions should be accorded some form of legal status among the treaty bodies. Certain reservations had been expressed by the participants regarding the idea that such decisions should be binding.

16. When States parties were unwilling to comply with the Committee's views on individual complaints, the High Commissioner could play a valuable role as mediator, using her good offices to secure States' compliance.

17. Ms. GAER said that she greatly appreciated the High Commissioner's presence and her reaffirmation of the importance of States' obligations under the treaties they had ratified.

18. The UPR mechanism had actually enhanced the value of the treaty bodies and their recommendations, if only because of the major role played by rhetoric in the discussions during the review process.

19. As the Rapporteur for Follow-up to concluding observations, she particularly welcomed the High Commissioner's commitment to accelerating compliance with the Committee's recommendations at the national level.

20. Mr. WANG Xuexian said the Inter-Committee Meeting had recommended that OHCHR should allocate additional human and financial resources to the treaty bodies in order to ensure effective and continued support for their work. He asked whether OHCHR had taken any action on that recommendation. As the Committee had only 10 members, it was completely overwhelmed during the last week of each session. Only the country rapporteurs had time to study the concluding observations on individual States parties, although they were supposed to reflect the conclusions of the Committee as a whole. The solution was either to increase the membership or to provide for an additional session each year.

21. The CHAIRPERSON proposed that the Committee should now go into closed session with the High Commissioner to discuss a number of internal issues regarding relations between the Committee, its secretariat and OHCHR.

22. It was so decided.

The public part of the meeting was suspended at 10.45 a.m. and resumed at 11.20 a.m.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (CAT/C/42/1)

23. The provisional agenda (CAT/C/42/1) was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

24. The CHAIRPERSON highlighted various aspects of the programme of work for the current session, which was expected to be particularly intense. The meetings with States parties, apart from providing a forum for the Committee to listen to their concerns, would be an opportunity to solicit their cooperation in responding to the list of issues in a timely fashion. The matter of scheduling an additional session could also be broached.

25. He reminded members that the lists of issues for the forty-third session (November 2009) and, under the new optional reporting procedure, the lists of issues transmitted to States parties prior to submission of their periodic reports would be formally adopted on 13 May.

26. Following a discussion in which the Chairperson, Ms. Gaer, Mr. Kovalev, Mr. Mariño Menéndez and Ms. Belmir participated, Mr. NATAF (Secretary of the Committee) read out the lists of States parties to be considered under the regular and optional procedures, and also the names of the rapporteurs who were preparing the respective lists of issues.

27. He recalled that the Committee had adopted the new optional procedure at its thirty-eighth session in 2007 in an attempt to facilitate the reporting process by States; the procedure had been introduced on a trial basis in relation to periodic reports due in 2009 and 2010.

28. The CHAIRPERSON said that he had raised the matter of the lists of issues at the first meeting of the session so that Committee members could plan their time accordingly.

29. Summarizing the issues that the Committee would take up during the session, he said that confidential matters under article 20 would be discussed and the Committee would have to decide on future reporting schedules.

30. With regard to working methods, he said that, to date, no State party had replied to a list of issues within the time limit set; he raised the question what the Committee could do to remedy that situation.

31. It was necessary to review the deadline for the submission of information by NGOs and national human rights institutions (NHRIs) in connection with the consideration of State party reports as some NHRIs were State-sponsored. It was therefore not necessarily damaging to the State if they submitted information after the two-week deadline. Information for NGOs and NHRIs had been posted on the Committee's website and had been well received by civil society.

32. Other matters for discussion would include a report on the rules of procedure, the adoption of treaty-specific guidelines, a paper on follow-up to communications, and the possibility of a new general comment based on the paper prepared on the standard of review.

33. He and Mr. Mariño Menéndez would be attending the Inter-Committee Meeting in June 2009, but there was still one place available if another Committee member wished to join them. He encouraged members who participated in conferences in their capacity as Committee members to share their experiences with the Committee.
34. There would be an election of new members of the Committee to replace the five members whose term would expire on 31 December 2009.
35. Emphasizing that the Committee's schedule would be very full, he said that a press conference would be held on the final day of the session.
36. With regard to methods of work, the way the Committee fostered dialogue was key, and he raised the question whether the Committee should allow States parties to respond immediately to questions, as was the case in other committees. He called for ideas on how to get the most out of the limited time available during meetings. For example, should time limits be imposed on speakers? Members needed to work together and come to a consensus on the approach to be used on that issue.
37. Mr. MARIÑO MENÉNDEZ asked whether there would be a discussion on the death penalty.
38. The CHAIRPERSON said that the Committee as a whole had to decide what was to be discussed, taking into account the time available, but it would try to include a discussion of that matter. Amnesty International had requested an informal meeting with him, as Chairperson of the Committee, to discuss the death penalty; he would report back to the Committee after that meeting.
39. A meeting with the Subcommittee on Prevention of Torture was scheduled in the programme of work.

The public part of the meeting rose at noon.