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Eighteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 295th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 8 May 1997, at 10 a.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.295/Add.1.

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

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Special report by Israel (CAT/C/33/Add.2/Rev.1)

1. At the invitation of the Chairman, Mr. Lamdan, Mrs. Arad, Mr. Nitzan and Mrs. Ronen (Israel) took seats at the Committee table.

2. The CHAIRMAN said that representatives of Reuters press agency had asked permission to film for television the meeting considering the special report by Israel. The Israeli representative had indicated that he would not mind if a few minutes at the beginning of the meeting were filmed; he wondered whether the Committee was also prepared to agree to the request.

3. Mr. BURNS, supported by Mr. PIKIS and Mr. SORENSEN, said that the purpose of the request was unclear. He would have no objection to filming the entire meeting, but was not enchanted with the idea of filming only a few minutes at the beginning because only the State party's statement would be covered: there was a danger of giving a wrong impression of what would occur during the meeting.

4. Mr. LAMDAN (Israel) emphasized that the request did not come from his Government, and that he did not in any way wish to influence the Committee's decision. The request had been made unexpectedly to his delegation, which had not objected.

5. Mr. CAMARA could not see why journalists doing their job could cause any problem.

6. Mr. BURNS had no objection to journalists doing their job or to their filming the entire meeting from which they could later take clippings to produce a brief account. What would perturb him would be to film only the first three minutes of the meeting, when those three minutes would be devoted exclusively to the presentation of the State party's viewpoint on a very controversial question.

7. Mr. CAMARA supported Mr. Burns and suggested that the Committee should authorize the journalists to cover the entire meeting.

8. Mr. PIKIS said that what should be filmed was the final position taken by the Committee and the announcement of its recommendations.

9. Mr. SORENSEN emphasized that the meeting was public and that television journalists could attend just like any other members of the press. He could see no grounds for the Committee or the delegation to censor them.

10. Mr. YAKOVLEV felt that if the entire statement by the Israeli delegation was the only thing to be filmed, Mr. Burns' misgivings would be entirely justified; but if it was only to be a few minutes at the beginning of the

statement, he could see nothing untoward in that. It would at least have the advantage of drawing the attention of world opinion to the meeting and, hence, to its outcome.

11. Mr. VIROT (Reuters) said that his team intended to photograph and film the main participants in the discussion; clippings would then be assembled to produce a very short programme giving the gist of the meeting. It might be best if the team could film for as long as was necessary so that it could choose clippings later, since the meeting was, as Mr. Sorensen had said, public.

12. The CHAIRMAN said that if he heard no objection he would take it that the Committee authorized the Reuters team to cover the entire public part of the meeting.

13. It was so decided.

14. The CHAIRMAN thanked the Israeli delegation for replying with much diligence to the letter sent by the Committee on 22 November 1996, and invited it to introduce the special report (CAT/C/33/Add.2/Rev.1) produced in response to that letter.

15. Mrs. ARAD (Israel) said that the special report submitted by her country (CAT/C/33/Add.2/Rev.1) focused on the recent decision of the Israeli Supreme Court sitting as the High Court of Justice, which had given rise to the Committee's request, and its implications for the implementation of the Convention. It must be remembered that Israel was in the midst of a peace process with the Palestinians which had given rise to a great deal of opposition amongst extremist groups on both sides. There had been an unprecedented outburst of atrocities on the part of Palestinian terrorist organizations seeking to shatter the peace process; many people had been killed and injured in terrorist suicide bombings. One could not speak of interrogation techniques used in Israel without reference to the background against which interrogations were carried out. She therefore wished to outline what had taken place since the submission of Israel's initial report.

16. Since 13 September 1993, when the Declaration of Principles between Israel and the Palestine Liberation Organization had been signed, 214 Israelis - 143 civilians and 71 members of the security forces - and 151 Palestinians had been killed in terrorist attacks in Israel and the territories; 1,343 Israelis - 669 civilians and 674 members of the security forces - and 239 Palestinians had been wounded. Suicide attacks had been mounted by terrorists in areas with large numbers of civilians, including women and children; a number of buses had been blown up in the centres of Jerusalem and Tel Aviv. On 22 March 1997 a suicide attack had been committed in a cafe in central Tel Aviv, killing three women and wounding 50 other people. Investigations by the General Security Service (GSS) were designed to foil and prevent such attacks, which had unfortunately become a part of daily life in Israel. The need to combat the plague of terrorism was central to the discussion. It was in the interests of all countries, and in the immediate interest of both the Israelis and the Palestinians.

17. Israel faced a real dilemma: on the one hand the State was bound to protect the lives of its inhabitants and citizens, Jews and Arabs, from the threat of terrorism and its murderous consequences. It therefore needed an efficient and dynamic investigative machinery capable of preventing or at least limiting such attacks in the future. But the State was also bound to respect basic human rights, including those of terrorists under investigation, even when the persons concerned had been responsible for causing death and devastation. Israel tried as best it could to strike a balance between those two obligations, including during interrogations, the subject of the current discussion.

18. Israel categorically deplored and prohibited the practice of torture, including during interrogation. Even if torture were not prohibited by legislation, the State of Israel would honour the universal prohibition on its use, for it was founded on the values of the biblical prophets whose legacy to mankind was the basis of moral law, central to which was respect for human dignity, life and integrity. Those historic Jewish values were enshrined in the Israeli Constitution; whatever predicament the State might find itself in, and however great the need to fight terrorism, investigators were never authorized to use torture, even to save lives, and never had been; they were also absolutely forbidden to use cruel, inhuman or degrading methods of interrogation. That said, during interrogations whose object was to prevent acts of terrorism, investigators were permitted in exceptional circumstances to use methods which would be regarded as unacceptable in regular interrogations. Unpleasant as those methods were, none remotely resembled torture within the meaning of the Convention or could possibly be likened to cruel, inhuman or degrading treatment. The Israeli Government had made explicit declarations to that effect both to the Supreme Court and to the Committee against Torture: Israel complied with the terms of the Convention.

19. She referred to the judgement given in the Hamdan case, in which the Court had explicitly noted the State's position that none of the methods used in an interrogation qualified as “torture” as defined by the Convention. Unfortunately, it had become apparent that the openness, the respect for the judiciary and the democratic nature of Israeli institutions had worked to Israel's detriment. The review of GSS interrogation methods by the various State authorities often raised issues which in other countries were never discussed or brought into the open. The very fact that in Israel such a review was carried out both at the time by the Court and later by the other authorities had an extremely constructive aspect, strengthening adherence to the rule of law and carrying an educational and a public message - that everyone's dignity must be respected.

20. Israel had set up a system of scrutiny whose object was to ensure that GSS investigators did not depart from permissible practice. The system was described in chapter III of the special report, and it would be noted that a special ministerial committee for GSS interrogations maintained constant scrutiny over the methods employed. In addition, the State Comptroller was empowered to scrutinize all activities of GSS and had, in recent years, undertaken a thorough review of the GSS Investigations Division, presenting his findings to the Prime Minister who was directly responsible for GSS. The activities of the Investigations Division were also reviewed by a Knesset

committee. Furthermore, suspected offences on the part of investigators were no longer investigated by the police but by the Department for the Investigation of Police Officers in the Ministry of Justice, under the direct supervision of the State Attorney. The Department had been given that authority by a special law passed in 1994, and the transfer of authority ensured that investigations were carried out by an independent body answerable to the highest authorities of the State. The Department had investigated the only case of death during a GSS interrogation since the submission of the previous report, to wit the death of Abdel Samet Harizat in April 1995; the investigation had established that there had been no criminal wrongdoing but one of the investigators had behaved in a manner deemed inappropriate, although no connection between his behaviour and the actual death had been established. The individual concerned had been indicted and undergone disciplinary penalties on a number of counts.

21. In addition, the examination of complaints made by persons under GSS interrogation was no longer subject to GSS review but was reviewed by a special department in the Ministry of Justice, also answerable to the State Attorney - which ensured its competence and independence. The Department examined all complaints and, where it found one that had substance, recommended appropriate action including, where necessary, steps against investigators who had acted unlawfully. In previous such cases it had drawn the appropriate conclusions and taken action including, when required, action against the investigators concerned: some whose conduct had been unsatisfactory, had been removed from their jobs or expelled from the service altogether. In the most serious cases, investigators had been indicted, and two had been sentenced to prison terms. Any breaches of the rules were immediately reported to all the relevant GSS branches. Those arrangements showed that the State strove to scrutinize the work of investigators and ensure that they did not go beyond what was lawful or resort to banned methods during interrogations.

22. Over the past few years, interrogations by GSS had been kept under judicial review in “real time”, i.e. while they were taking place. That was a relatively new development and unique, to the best of her knowledge. Any person under interrogation who believed that banned measures were being used was entitled to petition the Supreme Court, sitting as the High Court of Justice, for an order that those methods cease forthwith. If the Court found that methods used against the person under interrogation constituted torture or cruel, inhuman or degrading treatment, it would grant the petition and ban the use of those methods; the right to petition the Supreme Court directly also belonged to residents of the territories. Despite the novelty of the procedure, the Supreme Court, recognizing the importance to the judiciary of keeping the protection of the rights of persons under GSS interrogation under direct review, had started to consider such petitions urgently. GSS accepted the Court's scrutiny, and whenever the Court wanted it to stop using a particular method, immediately complied with the Court's decision. In practice, therefore, GSS interrogations were now conducted under the direct scrutiny of the Supreme Court, which convened to hand down rulings on very short notice, sometimes 24 or 48 hours after a petition was submitted; in some cases it issued interim orders banning particular interrogation methods until the hearing, when the substance of the matter could be discussed. During the hearings themselves the Court considered whether the GSS investigators had

acted within the law, while examining the general background and objectives of the investigation and the methods used. Waiving the usual confidentiality of such matters, GSS described the methods used to the Court.

23. It would evidently have been far easier for the Court not to deal with those petitions but to dismiss them on the basis of their "non-justiciability". Given the importance attached to human rights questions in Israel and the Government's desire to conduct proper, legal interrogations, the Court had decided to maintain constant and immediate scrutiny of GSS interrogations. As a result, it had dealt with tens of petitions over the past two years, examining each on its own merits and circumstances. As an example, the Hamdan case was annexed to the special report, and she would refer to the Belbaysi case, another crucial investigation conducted in order to avert imminent disaster and save lives. In both cases the Court had first issued interim injunctions banning the use of certain interrogation methods, rescinding them only when it was satisfied that their use was essential to prevent imminent terrorist attacks; even then it had emphasized that its ruling did not sanction the use of torture or cruel, degrading or inhuman treatment.

24. It had transpired during the course of the interrogation in the Belbaysi case that the individual concerned had been responsible for two bombs which had killed 21 innocent people in January 1995. It had also emerged from the interrogation that Belbaysi had produced a third bomb which he had hidden. After the interrogation the bomb was found, preventing another catastrophe. Under the circumstances the Court had rescinded its interim injunction, being satisfied that the use of the methods advocated by GSS was essential to avert further disasters. There again, however, the Court had stressed that its rescinding of the order could not be construed as authorizing the use of methods that did not accord with the law or the guidelines given to GSS. Since the law and the guidelines prohibited the use of torture or cruel, degrading or inhuman treatment, the Court had not in any manner endorsed the use of such methods.

25. The case law of the Supreme Court also reflected the agonizing dilemma Israel faced as it tried to strike a balance between the safety of the State and its citizens and respect for the basic principles of morality, fairness and justice, as a State governed by law should. It had dealt with the issue in a judgement on a criminal appeal after two GSS interrogators were convicted of causing death by negligence (Criminal Division, appeal 532/91, X et al. v. the State of Israel). In the judgement, which was available to the Committee, the Court found that the State of Israel had struck a balance between conflicting values, protecting both the integrity of the person under interrogation and the security of the State and its institutions. The Supreme Court had upheld its position of allowing exceptional interrogation methods only when it was clear that extreme and exceptional circumstances made them absolutely essential. It had never sanctioned the use of torture. The Court, therefore, had taken a position consistent with the Convention.

26. To demonstrate Israel's commitment to the Convention she cited a number of steps taken by the Government, the most important being the appointment three years previously, by the Ministerial Committee for Legislation, of an expert committee, headed by the Attorney-General, to provide the

Ministerial Committee with recommendations regarding the need to amend Israeli penal law to make it fully consistent with the Convention. The committee, comprising a number of experts on the subject and the head of the police, the head of the General Security Service and the State Attorney, had found that Israeli law contained provisions of wider scope than the Convention laying down penalties for causing harm to people under interrogation. The text of those provisions had been made available to the Committee against Torture. By way of example, she cited section 277 of the Penal Law 1977, making it an offence for a public servant to use force or violence against a person to force an admission or information out of him. The expert committee had also recommended legislation explicitly prohibiting torture as defined in the Convention to supplement the law already in existence. The amendment to the Penal Law would take the form of a special section entitled "Prohibition of torture", and the definition of torture would fully accord with that given in the Convention. Once adopted, the amendment would represent an important additional step towards assimilating the provisions of the Convention into Israeli domestic law.

27. Concluding, she stressed again the extreme complexity of the situation facing Israel. Terrorists were applying methods far more barbarous and lethal than ever before, and the State was duty-bound to protect the lives of its citizens. The information obtained during interrogations was thus essential. It was for that reason that, in certain exceptional cases, GSS investigators were authorized to use interrogation techniques that were not usually permitted. They were not, however, allowed to use illegal methods or resort to action tantamount to torture. The GSS internal guidelines, following the criteria of the Landau Commission, said that disproportionate exertion of pressure was not permissible: pressure must never reach the level of physical torture or maltreatment nor cause serious harm to the honour of the subject. With those restrictions and external scrutiny, the work of the GSS investigators had helped avert a great many disasters. Preventing terrorist attacks was a top priority for the State of Israel, but no less a priority was to uphold human rights and universal values, and to preserve human dignity.

28. Mr. BURNS (Country Rapporteur) thanked Mrs. Arad for her detailed presentation and the Israeli Government for having submitted a special report on interrogations (CAT/C/33/Add.2/Rev.1). He was nevertheless sorry that, as paragraph 1 of the report indicated, the report had been submitted to clarify Israeli interrogation principles and practice after a Supreme Court decision was misinterpreted by the world media. It might have been preferable for the Israeli Government to respond to the Committee's concerns. In any event, the report submitted called for a number of remarks.

29. The general situation in Israel was well known to Committee members, all of whom knew that terrorists were trained to withstand police interrogations both physically and psychologically. The question was, therefore, what was a legitimate interrogation technique and what was not; the response was provided by national or international standards. Israel had not incorporated international treaties into its domestic law, and while account was taken of some provisions, they were not binding on Israeli courts. Domestic-law doctrine on the existence of "necessity", largely based on the principles adopted by the Landau Commission, had undergone some changes.

The Landau Commission had promoted the notion of “moderate physical pressure”, which was regarded as an acceptable interrogation technique used on terrorists suspected of preparing to commit acts which would probably cause the deaths of Israeli citizens. The Landau Commission did not appear to consider “moderate physical pressure” to be unlawful under international law in the very specific case of considerable anticipated danger. The Israeli Government supported that idea, stressing that the notion of moderate physical pressure was not unknown in other democratic countries and that the European Court of Human Rights, called upon to consider interrogation techniques used by the police in Northern Ireland against IRA terrorists, had accepted that certain forms of pressure could be applied. But the position taken by the European Court of Human Rights referred to a particular context and had not been adopted unanimously; furthermore, the British Government had not endorsed the acts in question and had subsequently banned them. He invited the Israeli delegation to indicate what other democratic countries, in its view, tolerated “moderate physical pressure”.

30. According to the Israeli Government, moderate physical pressure did not constitute torture or even cruel, inhuman or degrading treatment as defined in article 16 of the Convention. The precise kinds of pressure which GSS interrogators could apply were kept a secret lest interrogations become less effective if suspects knew what to expect from their investigators; but it must be borne in mind that many people who had been interrogated had revealed the methods used under the rules laid down by the Landau Commission. To decide whether the methods and pressure applied during interrogations were or were not consistent with article 16 of the Convention, the Committee needed hard facts. He would therefore draw in the main on information provided by trustworthy non-governmental organizations. He referred to the case of Ayman Kafishah, reported by an Israeli non-governmental organization; having been interrogated by the General Security Service, he had petitioned the Court for an interim order forbidding GSS to apply physical pressure; that petition had been rejected. In a statement made under oath he had given details of the interrogation techniques applied to him. He claimed to have been interrogated by several investigators, one after the other, for 36 hours without a break, having been prevented from going to the toilet or sleeping, and having been violently shaken. Psychological pressure had also been brought to bear. It would be interesting to know if the description of those interrogation techniques was correct and whether the Israeli delegation considered them to be violations of article 16 of the Convention, or whether they could be described as torture within the meaning of article 1 of the Convention.

31. In the case of Abdel Samet Harizat, referred to by Mrs. Arad in her oral presentation and said to be the only person who had died under GSS interrogation since the submission of the previous report, the inquiry had concluded that one of the investigators had behaved “inappropriately”; the investigator had been brought up on a disciplinary charge and sentenced. He would like to know what charge the investigator had been found guilty of and what penalty had been imposed. The oral presentation had also mentioned steps taken, following complaints, against investigators who had behaved illegally; some investigators who had behaved inappropriately were said to have been suspended, and others even expelled from the General Security Service. The Committee needed more information about what was meant by “inappropriate”, because the notion was very vague.

32. He would also like some additional information on the circumstances in which the courts issued or rescinded interim orders banning the use of physical pressure against a petitioner. The Court might be thought to base its decisions on information provided by GSS about interrogation methods - which was confidential - and why GSS thought it necessary to use them. The doctrine of "necessity" adopted by Justice Landau appeared to have some bearing on the rescinding of interim orders.

33. Turning back to the Convention, he pointed out that under article 2, paragraph 2, no exceptional circumstances whatsoever could be invoked as a justification of torture. The unjustifiability of torture had also been admitted by Justice Landau as an element of jus cogens. That being so, it was important to consider the constituent elements of torture in the sense of article 1 of the Convention, where "torture" meant any act by which "severe pain or suffering" was inflicted. The crux of the matter was how to interpret "severe suffering", an expression which could be defined only in relation to specific cases but must nevertheless be set against the objective of the GSS interrogation system. It must be wondered whether, faced with terrorists trained to withstand ill-treatment, GSS was not obliged, in order to secure the decisive information it sought, to inflict severe suffering, for otherwise interrogations would be much less effective. Thus one might wonder whether it was not the entire interrogation system that should be considered in the light of article 1 of the Convention. The Israeli delegation needed to explain how the authorities might intervene to ensure that action taken by investigators did not constitute a violation of article 1 of the Convention, and explain how a distinction was drawn between severe and non-severe suffering.

34. He also wished to ask a number of questions relating specifically to the special report. Paragraphs 11 and 12 spoke of the safeguards that must accompany any interrogation and the external scrutiny that had been set up; he wanted to know how many complaints of torture had been lodged, how many had given rise to an inquiry and, more generally, what resulted from such complaints. He had noted with satisfaction that the body responsible for inquiring into allegations of mistreatment was now answerable to the Ministry of Justice, not the Ministry of the Interior. It would be interesting to have details on the training given to people conducting interrogations, and to know whether doctors were consistently present at all interrogations - and if so, for what reason.

35. Paragraph 14 of the report said that an ad hoc committee had found a number of cases in which investigators had not acted in accordance with the guidelines for treatment of detainees. He would like to know the exact number of such cases and what action had been taken.

36. He emphasized the importance of the monitoring of conditions of detention by the International Committee of the Red Cross, whose delegates were permitted to visit detainees within 14 days of their arrest; he wished to know, however, at what point detainees could consult a doctor and lawyer of their choice and communicate with their relations. Non-governmental organizations had drawn attention to the fact that the rules laid down by the Landau Commission, authorizing "moderate" pressure with a view to securing

information, had been amended in September 1994 to permit greater pressure to be applied. He would like to know what limits applied to the pressure authorized, and in what precise conditions such pressure could be exerted.

37. Mr. SORENSEN thanked the Israeli delegation for its report and written statement. He wondered about the system of review of interrogation practices referred to in article 11 of the special report. It was not so much review as supervision that was necessary in the circumstances. The special report drew a parallel (para. 7) with the situation in Northern Ireland. There was, however, a difference: in Northern Ireland, interrogations of all detainees suspected of terrorism were filmed, and a person completely outside the agency carrying out the interrogation observed what took place and could intervene at any moment if necessary.

38. In 1994, during its consideration of the initial report of Israel, the Committee had noted in its conclusions and recommendations the existence of conditions conducive to the use of torture, and had indicated concern that at the time the only measures challenged were administrative in nature. Since then, the practices at issue had been endorsed by decision of the Supreme Court. He therefore concluded that the situation, far from improving, had grown far worse.

39. He had been pleased to hear the representative of Israel say that a draft amendment to the Penal Law would incorporate a section banning torture, torture being understood as any severe pain or suffering other than that resulting from the nature of “lawful sanctions”; a different draft had come to his attention, however, which spoke of pain or suffering except as “inflicted during interrogation”, which was quite another matter. He hoped the delegation could confirm that the first text was the right one.

40. The Committee was certain that torture had been practised in Israel. He recapitulated the four items which, according to article 1 of the Convention, constituted torture, referring to the case of Abd al-Samad Harizat, who had died in detention in April 1995. According to Dr. Derek Pounder, an eminent forensic expert who had attended the autopsy, there was no doubt that the victim had died as a result of torture, including very violent shaking. Dr. Pounder said that the marks observed on the body did not suggest a classical beating but a more sophisticated and refined method. Besides, Yitzhak Rabin, the former Israeli Prime Minister, had admitted that violent shaking had been inflicted on 8,000 detainees. One of them, Abd al-Samad Harizat, had died of it. It must be stated in strong terms that article 1 of the Convention was not concerned with the outcome of an act, but with the act itself. It was not the death of the victim which constituted torture, but the treatment the victim had undergone. All 8,000 people who had been subjected to the technique had been tortured. Psychological maltreatment - in particular, deprivation of sleep - was also torture. He had heard of one suspect interrogated for 39 and a half hours, who had been given 5 hours' break before being interrogated again for a further 47 hours, followed by 2 hours of rest and so forth. Such practices were not acceptable. Contrary to what was stated in paragraph 7 of the special report, it was not necessary for various methods to be applied in conjunction for there to be torture: one method was enough.

41. He could assure the Israeli delegation that, far from being insensitive to the dilemma Israel faced, the Committee strongly condemned terrorism. Terrorism was a scourge to which States must react forcefully and appropriately, but that did not authorize them to violate the Convention against Torture or permit the use of torture, a degrading practice unworthy of a State created after an episode in history marked by persecution of the Jews.

42. Mrs. ILIOPOULOS-STRANGAS was sorry that the State party had authorized torture, and pointed out that it was the only State to do so explicitly; it was indeed torture that she meant. If the Convention had been incorporated into domestic law the Landau Commission report, which the Committee found totally unacceptable, would promptly have been declared contrary to the Constitution. She wondered whether the Supreme Court had the authority to declare legislation contrary to the Constitution. In any event, a law could be passed democratically and legitimately without automatically upholding the rule of law. Pressure might be authorized by law, but it did not lend itself to the rule of law. Moreover, there was no justification for invoking the "necessity" supposedly acknowledged under international law. Neither customary nor conventional international law permitted any derogation from the untouchable principle that torture was banned.

43. Lastly, the State party had referred to the safeguards which the International Committee of the Red Cross supposedly afforded. Yet the International Committee had itself expressed doubts about the interrogation methods used.

44. Mr. PIKIS explained that the Supreme Court's judgement had caused consternation within the Committee because, besides indicating that the Committee's earlier recommendations had been ignored, it gave legal backing to interrogation practices which the Committee had denounced. Recapitulating articles 1, 2 and 16 of the Convention, he emphasized that it was the responsibility of the judiciary to uphold the rule of law and ensure that any coercive action taken by the authorities against citizens was lawful. The Supreme Court's judgement was unsupported by any principle and was concerned only with allowing the police to proceed as it saw fit. It made no reference to chapter 9 of Penal Law 5737-1977, which did conform to the Convention. The judgement, which placed the General Security Service above the law of the land by authorizing it to commit a crime prohibited under the Penal Code, struck at the very foundations of the rule of law.

45. In its special report (CAT/C/33/Add.2/Rev.1) the Israeli Government claimed that the use of moderate physical pressure was consistent with international law. That argument could not be supported. On the contrary, article 2, paragraph 2, of the Convention ruled out any derogation from the Convention, whatever the circumstances, even in wartime. It was precisely during difficult periods that Governments' compliance with the standards of law and principles of common humanity was put to the test. Lastly, he wished to know whether confessions obtained during an interrogation could be used before the courts, for that would be a violation of article 15 of the Convention.

46. Mr. YAKOVLEV said that securing confessions under duress was a violation of the right not to be forced to give evidence against oneself, over and above

the violations of Israeli legislation and the Israeli Constitution already brought to light. He emphasized that, since the recommendations made by the Landau Commission in 1987, there appeared to have been an inflation in the level of physical pressure tolerated, and that by giving legal backing to the methods employed by the General Security Service, the Supreme Court's judgement legalized and institutionalized a practice that was contrary to domestic law and the Convention.

47. Mr. BURNS said that the upsurge in terrorism confronted the entire international community with a serious dilemma. Yet it was in just such an extreme situation that the Convention came into its own and that efforts must be made to avoid at all costs meeting violence with violence. It was to be hoped that the Israeli authorities, drawing on their country's long democratic tradition, would draw up new guidelines for the General Security Service.

48. The CHAIRMAN, adding his voice to the various observations and questions formulated by Committee members, said that he too was sorry that the recommendations the Committee had already made to the Israeli authorities had had no effect. The Committee well understood the difficult situation confronting the Israeli Government but, while terrorism must be fiercely resisted, it must always be so by lawful means. The current status of the Landau Commission's guidelines was not clear, and the Committee needed to know whether they had later been taken up in a bill placed before the Israeli Parliament. If that was the case, it would be an example - unfortunately not so rare - of a law contrary to what was right being passed quite legally.

49. He thanked the Israeli delegation for the frank and collaborative spirit it had displayed, and invited it to respond to the Committee's questions at its 296th meeting.

50. Mr. LAMDAN (Israel) said that his delegation would answer the Committee's questions to the best of its ability, but emphasized that a number of the points raised during the meeting went far beyond what his delegation had been asked to discuss in appearing before the Committee.

51. The CHAIRMAN explained that the range of topics covered by the questions was commensurate with the seriousness of the problem under discussion which was, in the final analysis, that of respect for human dignity.

52. The Israeli delegation withdrew.

The first part (public) of the meeting rose at 12.40 p.m.