



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

Distr.  
GENERAL

CAT/C/SR.817  
9 May 2008

Original: ENGLISH

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COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD (PARTIAL)\* OF THE 817th MEETING

Held at the Palais Wilson, Geneva,  
on Friday, 2 May 2008, at 3 p.m.

Chairperson: Mr. GROSSMAN

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\* No summary record was prepared for the rest of the meeting.

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

CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22 OF THE CONVENTION (continued)

Follow-up on decisions adopted under article 22 of the Convention (continued)  
(CAT/C/40/R.1)

1. The CHAIRPERSON invited the Committee to resume its consideration of the report on follow-up activities (CAT/C/40/R.1) relating to the Committee's decisions on individual complaints submitted under article 22 of the Convention.
2. Mr. MARIÑO MENÉNDEZ (Special Rapporteur on Follow-up), referring to the case of Falcón Rios v. Canada (communication No. 133/1999), proposed that a sentence should be added in the last paragraph reflecting the Committee's decision to the effect that the complainant's failure to reply could be interpreted as a wish to discontinue the case.
3. The CHAIRPERSON said he took it that the Committee wished to adopt the proposal by Mr. Mariño Menéndez.
4. It was so decided.
5. Mr. MARIÑO MENÉNDEZ drew attention to an error in the information provided on the Bachan Singh Sogi v. Canada case (communication No. 297/2006): India, the country to which the complainant had been returned, contrary to the Committee's recommendation, had signed but not ratified the Convention.
6. Ms. GAER said that even though India had not ratified the Convention, it should not contravene its provisions. Perhaps that could be reflected somehow in the paragraph on further action taken or required.
7. Mr. GALLEGOS CHIRIBOGA endorsed Ms. Gaer's suggestion. Furthermore, he did not consider it sufficient for the Committee merely to welcome the State party's (Canada's) adoption of the new law. Canada had failed to comply with the Committee's recommended remedy and should be expected to do more by providing reparation in line with the Convention.
8. Mr. MARIÑO MENÉNDEZ said that the adoption of the new law could be considered as a form of reparation: it would prevent any recurrence of the type of problem faced by the complainant.
9. The CHAIRPERSON said that the issue at stake was not whether India had ratified the Convention, but that Canada had failed to comply with the Committee's request for interim measures of protection by returning the complainant to India. The Committee should note that fact with regret in its letter to the State party and recommend the provision of full reparation.

10. Ms. BELMIR agreed that the question of whether India had ratified the Convention was irrelevant. She wondered what the Committee's jurisprudence was in such cases, expressing concern about setting a precedent for similar cases in future.
11. Mr. MARIÑO MENÉNDEZ agreed with Ms. Belmir that what was important was how the Committee dealt with Canada, and that it would complicate matters to enter into the territory of bilateral relations between India and Canada. He proposed that in terms of further action, the Committee should write to the State party noting with regret its interpretation of the interim measures of protection, while recognizing that they were not binding. It should also point out that India was not a party to the Convention. Instead of requesting full reparation or reparation in keeping with the Convention, the Committee should seek assurances that the complainant would not be subjected to torture in India.
12. The CHAIRPERSON said he took it that the Committee agreed to the further action proposed by Mr. Mariño Menéndez; the text of the report would be amended accordingly.
13. It was so decided.
14. Mr. MARIÑO MENÉNDEZ, referring to further action taken or required in the case of Suleymane Guengueng et al.v. Senegal (communication No. 181/2001), said that a meeting would be held shortly with representatives of the State party to seek information concerning the donors' meeting with European countries. He proposed that the Committee should defer its consideration of the case pending the outcome of that meeting with the State representatives.
15. The CHAIRPERSON said he took it that the Committee agreed to the proposal by Mr. Mariño Menéndez.
16. It was so decided.
17. Mr. MARIÑO MENÉNDEZ said that no further action was required in the case of Jean-Patrick Iya v. Switzerland (communication No. 299/2006). The State party (Switzerland) had acceded to the Committee's request for interim measures of protection by granting the complainant temporary admission, as a result of which he no longer risked removal to the Democratic Republic of the Congo.
18. Ms. SVEAASS, Mr. KOVALEV and Mr. GALLEGOS CHIRIBOGA expressed concern about the status of temporary admission and the protection it provided for the complainant.
19. Ms. FOX (Petitions team) read out a short note in French from the Swiss authorities on the subject.
20. Mr. MARIÑO MENÉNDEZ said that the situation was still somewhat ambiguous, and he would therefore contact the Swiss authorities for clarifications.
21. The CHAIRPERSON said that if the Swiss authorities provided the necessary assurances that the complainant would not be returned to the Democratic Republic of the Congo, there

would be no need to refer the matter back to the Committee, since the State party had already complied with the Committee's decision. He took it the Committee agreed to that course of action.

22. It was so decided.

23. Mr. MARIÑO MENÉNDEZ said that the Committee had received no response from the State party (Tunisia) concerning its decision in the case of Ali Ben Salem v. Tunisia (communication No. 269/2005). In the meantime, the complainant had appeared in court, but it was not clear whether the proceedings constituted part of the remedy recommended by the Committee; moreover, the complainant had been subjected to further ill-treatment. He suggested that the Committee should seek clarification from the State party on those matters; the paragraph in the report on further action taken or required should be amended accordingly.

24. Ms. SVEAASS said that since the complainant had been subjected to further ill-treatment, the last paragraph reflecting the Committee's Decision seemed rather weak.

25. Mr. KOVALEV and the CHAIRPERSON also expressed concern about the last paragraph.

26. Mr. MARIÑO MENÉNDEZ proposed that the paragraph should indicate the need to pursue follow-up procedures with a view to eliciting a response from the State party on the provision of the recommended remedy.

27. The CHAIRPERSON said he took it that the Committee wished the paragraphs referring to further action taken or required and the Committee's Decision to be amended along the lines proposed by Mr. Mariño Menéndez.

28. It was so decided.

29. Mr. MARIÑO MENÉNDEZ said that there were two main developments in the case of Chipana v. Venezuela (communication No. 110/1998) which required clarification: the new proceeding initiated by the complainant with a view to her acquittal; and information received from the State party (Venezuela) concerning the possible modification of the terms of the extradition treaty with Peru under which the complainant had been extradited. However, since the report had been drafted the Petitions team had received additional information from the State party. It indicated that the complainant's detention conditions in Peru were still being monitored, and that Peru had not requested any modification of the terms of the extradition treaty. As regards further action required, he therefore proposed that the Committee should take note of the information provided by Venezuela, and request it to continue monitoring the complainant's situation in Peru.

30. Mr. GALLEGOS CHIRIBOGA asked whether it might be useful for the Committee to seek clarification directly from Peru, not least because it was a party to the Convention.

31. Ms. FOX (Petitions team) said that to date it had not been the practice to contact third parties in such cases, irrespective of whether they were States parties to the Convention.

32. Mr. GALLEGOS CHIRIBOGA said that the matter should nonetheless be given further consideration, particularly in the light of the discussion earlier concerning the Bachan Singh Sogi v. Canada case.

33. Following further comments, the CHAIRPERSON said he took it that the Committee wished to amend the paragraph on further action taken or required along the lines proposed by Mr. Mariño Menéndez. He suggested that the Committee should take up the matter raised by Mr. Gallegos Chiriboga at some future date.

34. It was so decided.

The discussion covered in the summary record ended at 4 p.m.