



**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 895th MEETING

Held at the Palais Wilson, Geneva,  
on Friday, 15 May 2009, at 3 p.m.

Chairperson: Mr. GROSSMAN

later: Mr. WANG Xuexian

later: Mr. GROSSMAN

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

ADOPTION OF THE ANNUAL REPORT OF THE COMMITTEE ON ITS ACTIVITIES  
(CAT/C/CRP.1/Add.1 to 8)

1. The CHAIRPERSON invited the members of the Committee to review the draft annual report chapter by chapter.

Chapter I

2. Ms. KLEOPAS (Rapporteur) pointed out that she had added seven paragraphs to the original document in English (paragraphs 11, 11 bis, 12, 13, 18, 19 and 20), which did not appear in other versions because they had not been translated. Those paragraphs, which she read out, dealt with the Committee's decision on the adoption of its concluding observations as well as with the consideration of recommendations made by the Eighth Inter-Committee Meeting. They also reviewed the new procedure for establishing lists of issues before States parties prepared their reports and reminders to States parties whose reports were overdue.

Sections A to E

3. Sections A to E were adopted.

Section F

4. Ms. KLEOPAS (Rapporteur) said that section F had been expanded in order to cover some salient aspects of the meeting the Committee had held on 12 May 2009 with the Subcommittee on the Prevention of Torture (see CAT/C/SR.889).
5. Section F was adopted.

Section G

Paragraph 12

6. Mr. KOVALEV recalled that the Committee had not only considered the recommendations of the Eighth Inter-Committee Meeting, but had also adopted decisions relating thereto.
7. The CHAIRPERSON asked the Rapporteur to revise paragraph 12, incorporating a brief summary of those decisions.
8. Section G was adopted, subject to the necessary amendments.

Section H

9. Section H was adopted.
10. Mr. Wang Xuexian took the Chair.

## Sections I and J

11. Ms. GAER said that the language used in paragraphs 14 and 16, which dealt with non-governmental organizations and national human rights bodies respectively, should be the same: in the case of non-governmental organizations, the draft stated that the Committee was grateful (“sait gré”) for their participation in its meetings, whereas in the case of the national human rights bodies, it stated that the Committee wished to express its gratitude (“tient a [leur] exprimer toute sa gratitude”). In addition, paragraph 14 said that the Committee met with non-governmental organizations in private, with interpreters, whereas paragraph 16 did not mention that the national human rights bodies also benefited from interpretation services.

12. Sections I and J were adopted, subject to the necessary amendments.

13. Sections K and N were adopted, subject to drafting changes.

14. Chapter I, as amended, was adopted.

## Chapter II. Submission of reports by States parties under article 19 of the Convention (CAT/C/42/CRP.1/Add.2)

15. Chapter II was adopted.

## Chapter III. Consideration of reports submitted by States parties under article 19 of the Convention

16. Chapter III was adopted, subject to additions.

## Chapter IV. Follow-up on conclusions and recommendations on States parties' reports

17. Ms. GAER (Rapporteur for follow-up to conclusions and recommendations) said that the information included in chapter IV would be confirmed and updated one last time and that the text would be expanded to include the discussions that had arisen from consideration of her report.

18. The CHAIRPERSON said that the Committee had held a discussion on the adoption of its concluding observations, and had decided to continue to reflect on that matter during its next session, with a view to identifying some principles and guidelines. He suggested that the discussion and the decision that would follow should be included in the Committee's annual report.

19. Ms. GAER (Rapporteur for follow-up to conclusions and recommendations) said that she supported that suggestion on the condition that the report would not reproduce the discussion in detail, since it was still in the early stages, but merely mention the proposal to draft a working document on the adoption of concluding observations and the Committee's decision to pursue that matter subsequently.

20. Mr. Grossman resumed the Chair.

21. The CHAIRPERSON pointed out that it was especially important to report on the Committee's thoughts on the adoption of concluding observations, since the next Inter-Committee Meeting would be taking up that question. He agreed that it should not be necessary to describe the discussion in detail.

22. Ms. Gaer's proposal was accepted.

23. Chapter IV was adopted, subject to additions.

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

24. Chapter V was adopted.

Chapter VI. Consideration of complaints under article 22 of the Convention  
(CAT/C/42/CRP.1/Add.6)

25. Chapter VI was adopted.

Chapter VII. Future meetings of the Committee (CAT/C/42/CRP.1/Add.7)

26. Chapter VII was adopted, subject to additions.

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

27. Chapter VIII was adopted.

28. The draft annual report as a whole was adopted as amended.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

Programme of work

29. Mr. NATAF (Secretary of the Committee) read out a summary (document distributed in the meeting room in English only) containing the names of the States parties whose reports would be considered during the forty-third session and the names of the members of the Committee who would serve as rapporteurs and co-rapporteurs for those reports: Azerbaijan - Ms. Gaer and Mr. Wang Xuexian; Slovakia - Ms. Kleopas and Mr. Wang Xuexian; El Salvador - Mr. Gallegos Chiriboga and Ms. Belmir; Colombia - Mr. Mariño Menéndez and Mr. Grossman; Moldova - Ms. Sveaass and Mr. Kovalev; Spain - Mr. Grossman and Mr. Gaye; Yemen - Ms. Sveaass and Ms. Belmir.

30. The rapporteurs and co-rapporteurs for the States parties for whom lists of issues would be adopted during the forty-third session and whose reports would be considered during the forty-fourth session were as follows: France - Mr. Grossman and Ms. Belmir; Switzerland - Mr. Gaye and Mr. Mariño Menéndez; Cameroon - Ms. Sveaass and Mr. Gaye; Liechtenstein - Mr. Wang Xuexian and Ms. Kleopas; Jordan - Ms. Gaer and Mr. Gallegos Chiriboga;

Austria - Mr. Gallegos Chiriboga and Mr. Kovalev; Syrian Arab Republic - Mr. Mariño Menéndez and Ms. Sveaass. There would be no list of issues for the Syrian Arab Republic, since that was an initial report.

31. As for the compilation of lists of issues to be given to each State party prior to their submission of a periodic report, and which would be adopted during the forty-third session, the co-rapporteurs and rapporteurs for each country were as follows: Bahrain - Ms. Belmir and Ms. Gaer; Benin - Ms. Belmir and Ms. Sveaass; Denmark - Ms. Kleopas and Mr. Wang Xuexian; Estonia - Mr. Kovalev and Mr. Wang Xuexian; Georgia - Ms. Gaer and Mr. Gallegos Chiriboga; Germany - Mr. Kovalev and Mr. Grossman; Guatemala - Mr. Grossman and Ms. Sveaass; Italy - Mr. Gallegos Chiriboga and Mr. Grossman; Japan - Mr. Mariño Menéndez and Mr. Grossman; Lithuania - Mr. Kovalev and Mr. Wang Xuexian; Luxembourg - Mr. Gaye and Mr. Wang Xuexian; Namibia - Ms. Sveaass and Ms. Kleopas; Netherlands - Mr. Gallegos Chiriboga and Ms. Kleopas; Norway - Ms. Kleopas and Mr. Wang Xuexian; Paraguay - Mr. Mariño Menéndez and Ms. Sveaass; Poland - Mr. Gallegos Chiriboga and Ms. Gaer; Portugal - Mr. Mariño Menéndez and Ms. Belmir; Sri Lanka - Ms. Gaer and Mr. Grossman; Tunisia - Ms. Belmir and Mr. Gaye; Ukraine - Mr. Kovalev and Mr. Gaye; United States of America - Mr. Mariño Menéndez and Mr. Gaye; Uzbekistan - Ms. Gaer and Mr. Kovalev. In total, the Committee would be sending lists of issues to 22 States parties prior to their submission of periodic reports. Ms. Gaer, Mr. Grossman, Mr. Kovalev and Mr. Wang Xuexian would be responsible for five countries each; Ms. Belmir, Mr. Gaye, Mr. Gallegos Chiriboga, Ms. Kleopas and Ms. Sveaass for four countries each.

32. The procedure for compiling lists of issues prior to the submission of a periodic report was exactly the same as the usual procedure for the compilation of lists of issues: the secretariat prepares a first draft, which is then sent to the rapporteurs and co-rapporteurs, who then return the draft to the secretariat accompanied by their comments and proposals for revision, then a new revised draft integrating those proposals is distributed to the rapporteurs and the other members of the Committee, and finally adopted in plenary.

33. As had been indicated in an e-mail message recently sent to Committee members, in future all working documents would be sent exclusively by electronic mail or provided on the Committee's extranet site. Members had been sent a password permitting them to access the page reserved for them.

#### Evaluation of facts and evidence by the Committee (CAT/C/41/CRP.2)

34. The CHAIRPERSON introduced the document that he had prepared on the evaluation of facts and evidence by the Committee, and invited the members to give their views.

35. Ms. GAER said that the Chairperson had done a remarkable job. She wondered, however, what kind of document he had created, since the format and contents (procedural issues, many references to the work of bodies other than the Committee) did not seem, at first glance, to belong to a general comment.

36. The CHAIRPERSON said that his was a working document, meant to serve as the basis for a discussion. The evaluation of facts and evidence was a fundamental aspect of the work of the Committee under article 22, and adopting a systematic approach would allow them to improve their speed and efficiency when considering communications and to make their decisions more consistent. The approach described in the document was only one proposal. It was too soon, in his view, to determine the final form of the document or the use it would be put to.

37. Mr. WANG Xuexian said that he was convinced of the usefulness of adopting a systematic approach on the evaluation of facts and evidence and that the document provided an excellent point of departure. There were frequent disagreements on that issue between the Committee and the States parties regarding procedure for the consideration of communications, and that was also so in the context of the consideration of reports under article 19. The adoption of a clear and systematic approach could only ensure that the Committee's decisions would be more consistent. It was in the interest of both States parties and the authors of communications that the Committee should adopt precise guidelines concerning the evaluation of facts because they could refer to those guidelines and be better prepared.

38. Ms. BELMIR said that the Committee had accumulated a considerable jurisprudence in respect of article 22, but that States parties rarely accepted those decisions - often contesting their legal basis - or informed the public about them. The argument put forward on a number of occasions to the effect that the Committee was empowered as a last resort to analyse questions of law and thus to freely evaluate the facts, required an in-depth debate because it could entail a conflict of competencies between the Committee and the high courts of some States concerning the interpretation of the Convention.

39. Mr. SCHMIDT (Petitions Unit) said that the document would be an excellent basis for discussion. Designing a systematic approach for the evaluation of facts and evidence was undoubtedly a good thing because the Committee, like other conventional bodies, was not always as consistent as it should be in that respect. In addition, general comment No. 1 on the implementation of article 3 of the Convention in the context of article 22 needed to be expanded because the cases currently before the Committee could involve articles of the Convention other than article 3. To the three categories of situations set out in the document, it would perhaps be best to add another category covering situations where the facts were not contested by the parties but where, despite the information provided, they were not sufficiently clear.

40. The CHAIRPERSON said that, since all members seemed to agree on the usefulness of adopting a systematic approach to the evaluation of facts and evidence, the Committee could proceed to consider the substance of the draft. He invited the Petitions Unit to give its view on the text and to make suggestions.

41. Mr. SCHMIDT (Petitions Unit) said that the document had already been distributed to the members of the Petitions Unit for their comments, a summary of which would be prepared and distributed to Committee members at the next session.

42. The CHAIRPERSON said that Ms. Gaer, Ms. Belmir and Mr. Gallegos Chiriboga had offered to look over the text and report to the Committee on the result of their work at the next session.

43. Mr. SCHMIDT (Petitions Unit), reviewing the work of the session with respect to communications received under article 22, said that only 3 cases had been decided, and 10 had been deferred to the next session. To date, 67 communications were pending. At the pace at which the complaints were arriving - 14 had been received since the start of the year - there would likely be between 80 and 90 cases before the Committee at the November session. It was therefore imperative for the Committee to find a means of speeding up its procedures for considering communications and taking decisions on them. The Human Rights Committee, which had more than 400 cases pending, had adopted a number of measures that might interest the Committee. The Petitions Unit would draw up a document describing those measures and distribute it to the members of the Committee with a view to helping them reflect.

44. The CHAIRPERSON said that the situation called for an in-depth reconsideration of the Committee's methods of work in respect of the consideration of communications received under article 22 and that a meeting should be devoted to that matter during the next session.

#### CLOSURE OF THE SESSION

45. After the customary exchange of courtesies, the CHAIRPERSON declared the forty-second session of the Committee against Torture closed.

The meeting rose at 4.50 p.m.