



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

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COMMITTEE AGAINST TORTURE

Thirty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\* OF THE 617th MEETING

Held at the Palais Wilson, Geneva,  
on Wednesday, 19 May 2004, at 3 p.m.

Chairperson: Mr. MARIÑO MENÉNDEZ

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\* The summary record of the second part (closed) of the meeting appears as document  
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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Conclusions and recommendations of the Committee on the third periodic report of Chile  
(CAT/C/CR/32/5)

1. At the invitation of the Chairperson, the members of the delegation of Chile resumed their places at the Committee table.
2. Ms. GAER (Country Rapporteur) read out the Committee's conclusions and recommendations concerning the third periodic report of Chile (CAT/C/39/Add.5) contained in document CAT/C/CR/32/5.
3. Mr. MARTABIT (Chile) said he trusted that his country's commitment to the multilateral system for the promotion and protection of human rights was evident from the effort it had put into the preparation of its report and from the composition of the delegation that had attended the review proceedings.
4. Although his Government reserved the right to comment on the conclusions and recommendations, the delegation wished to thank the Committee for recognizing the efforts of successive Governments over the previous decade to comply fully with Chile's obligations under the Convention. It had, however, hoped for more explicit recognition of specific achievements such as the improvement of prison conditions, particularly for detained juveniles, and the enhancement of the quality of human rights training courses for the police and Gendarmería. He assured the Committee that its recommendations would be carefully studied with the national institutions concerned. He was gratified to note that the Committee considered that the information provided satisfactorily covered Chile's third and fourth reporting periods and undertook to ensure that the next periodic report was submitted by October 2005.
5. He expressed disappointment at the quality of the press releases covering the delegation's two meetings with the Committee. Comments had been made on the English version on each occasion and some corrections had been made. Unfortunately, however, the Chilean press had published the inaccuracies in at least one case. Although he understood that the Office of the United Nations High Commissioner for Human Rights (OHCHR) was not responsible for the press releases, he suggested that the subject should be discussed at the next meeting of chairpersons of the human rights treaty bodies. The United Nations Department of Public Information could perhaps insert a disclaimer in each press release.
6. The CHAIRPERSON assured the delegation that its comment would be taken into account at the next meeting of chairpersons of the treaty bodies.
7. The delegation of Chile withdrew.

Conclusions and recommendations of the Committee on the third periodic report of New Zealand (CAT/C/CR/32/4)

8. At the invitation of the Chairperson, the representative of New Zealand took a place at the Committee table.

9. Ms. GAER (Country Rapporteur) read out the Committee's conclusions and recommendations concerning the third periodic report of New Zealand (CAT/C/49/Add.3) contained in document CAT/C/CR/32/4.

10. Ms. DEMPSTER (New Zealand) said that her delegation had greatly appreciated its constructive dialogue with the Committee. New Zealand took its obligations under the Convention very seriously. She assured the Committee that it would carefully study the conclusions and recommendations and take appropriate action. Her delegation was pleased to note that New Zealand's third periodic report was deemed to have contained information relating to the fourth reporting period. She was confident that the next periodic report would be submitted on time and would be of the required quality.

11. The representative of New Zealand withdrew.

CONSIDERATION OF INFORMATION UNDER ARTICLE 20 OF THE CONVENTION  
(agenda item 8) (continued)

12. Mr. RASMUSSEN (Rapporteur on follow-up to recommendations under article 20) said that the Committee had completed its proceedings under article 20 on five States parties (Turkey, Egypt, Peru, Sri Lanka and Mexico) and a summary account of its findings had been published in the annual report. Reports by Turkey and Egypt under article 19 had been considered since completion of the article 20 inquiries. A report from Sri Lanka under article 19 had just been received. Peru had undertaken to submit a report before the end of 2004.

13. He had received a letter from the Permanent Mission of Mexico dated 30 April 2004 enclosing a nine-page report from the Office of the Attorney-General on the Government's action against torture since December 2001. According to the Permanent Mission, the Government hoped to submit its fourth periodic report to the Committee by the end of 2004. The delay in submission was essentially due to the Government's desire to include comprehensive information on action to consolidate its human rights policy. For example, a technical cooperation agreement had been concluded with OHCHR, under which an analytical study of the human rights situation had been undertaken in December 2003 and a National Human Rights Programme was currently being developed.

14. He proposed welcoming the letter, the steps that had been taken to eradicate torture and end impunity for acts of torture, and the assurances that the periodic report would be submitted by the end of the year. He recommended that priority should be given to consideration of the reports from Sri Lanka, Peru and Mexico.

15. Mr. MAVROMMATIS said that the submission of a report under article 19 was not necessarily the only follow-up needed to an article 20 inquiry. A close watch should be kept on developments in the States parties concerned.

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

16. The CHAIRPERSON said that lists of issues would in future be prepared by the country rapporteurs with the assistance of the secretariat. The pre-sessional working group would therefore be able to concentrate on complaints under article 22 of the Convention. As he would be unable to attend the next session of the group, he asked for a volunteer to take his place.

17. Mr. PRADO VALLEJO said he would be willing to serve on the working group.

18. It was so decided.

19. Mr. EL-MASRY said he was unsure whether there would be sufficient complaints to justify a full week's work.

20. Mr. MAVROMMATIS pointed out that complaints frequently presented complex legal issues requiring an in-depth study of the files.

21. The CHAIRPERSON said that there would certainly be enough material to keep the working group busy for four days.

22. Mr. RASMUSSEN observed that a more careful analysis of complaints by the working group would speed up the handling of article 22 issues in plenary.

23. Ms. GAER said that the Committee's new procedures relating, inter alia, to lists of issues created a need, in her view, for additional working days before or after the plenary meetings. If the working group could complete its work on complaints within three days, the remaining two could perhaps be used for that purpose. On the other hand, she noted that a large proportion of treaty-body funding now came from voluntary sources. Hence the General Assembly's approval would not necessarily be required for an additional working group that addressed matters other than complaints.

24. She drew attention to the need to appoint a rapporteur for each complaint who would assume ongoing responsibility for its fate. As several States parties had recently made the declarations under articles 21 and 22, the Committee's caseload might be expected to increase. More time should be devoted to the articulation of jurisprudence so that the reasoning underlying the Committee's findings in each case was made more explicit.

25. The CHAIRPERSON said that the principle of rotating membership of working groups was reliant on members of the Committee volunteering. As it had been decided that the pre-sessional working group would no longer be responsible for preparing lists of issues - which would in future be drawn up by the secretariat in consultation with the country rapporteurs - the Committee should consider whether it wished to entrust the working group with any other task, in addition to its responsibilities with regard to complaints. There were 17 complaints pending for consideration at the Committee's thirty-third session; he suggested that the pre-sessional working group might need to devote all five days to preparing complaints if it was to be able to ensure consistency with previous decisions by the Committee in each of those 17 cases.

26. Mr. YAKOVLEV suggested that the working group might devote one day to the discussion of documents prepared in advance by Committee members regarding the various articles of the Convention. The working group might also be asked to annotate texts prior to their consideration by the Committee in plenary, which would help members of the Committee to arrive at conclusions. Issues relating to the working methods of the Committee were important and should be given greater consideration.
27. Mr. PRADO VALLEJO suggested that the Committee might wish to look to the Human Rights Committee, which comprised 18 members. A working group comprising five members of that Committee met in connection with each session: if all five members were in agreement on the inadmissibility of a communication, that communication was not submitted to plenary; if it was deemed to be admissible, the communication was then considered on its merits. That working method had helped to coordinate the roles of the working group and of plenary and had allowed the Human Rights Committee to work effectively. Since the Committee's own working group comprised 4 out of 10 members, it might consider adopting an analogous working method.
28. Mr. RASMUSSEN noted that, if the Committee wished to adopt the working method suggested by Mr. Prado Vallejo, it would need to amend its rules of procedure.
29. Mr. EL-MASRY suggested asking the working group to look into the question of diplomatic assurances. The Committee had discussed the issue in relation to certain States, but a more general discussion was needed. The working group could be asked to prepare guidelines on best practice with regard to diplomatic assurances, such as the need for a credible monitoring system. Although each case would have to be considered on its merits, such guidelines would assist the Committee in its decision-making.
30. Ms. GAER said that the Committee should give some thought to its practice with regard to general comments; general comments served to advise States parties as to what was expected of them, in terms both of their reporting obligations and of effective implementation. The preparation of a general comment should always begin with a review of the Committee's jurisprudence and of the positions taken by its members, which would necessarily influence any outcome document; she wondered whether that stage of the process might be undertaken by the Committee secretariat. The preparation of general comments was a task that should be entrusted to a working group; however, there should be two different working groups, the first with responsibility for matters relating to the working methods of the Committee such as the preparation of general comments, and the second charged with reviewing individual complaints. She therefore proposed that the Committee schedule a second working group that could prepare general comments, and that the Committee should then make time to discuss them during the session. If necessary, the Committee should be prepared to examine fewer States parties' reports.
31. The question of diplomatic assurances was an interesting one: the Committee had begun to establish some jurisprudence in that regard, and had received a report from one of the major human rights organizations containing an analysis of the issue. The Committee might also wish to revise the general comment that it already had regarding article 3 in the context of article 22.

32. The CHAIRPERSON said that the Committee had received information from non-governmental organizations (NGOs) on issues that it might choose to make the subject of a general comment; consideration might be given to setting up an ad hoc working group to review the Committee's working methods with respect to general comments.

33. Mr. MAVROMMATIS said that rotation in the membership of the pre-sessional working group served to enhance its work and to enrich the experience of the members of the Committee; however, most members, himself included, did not put themselves forward. He noted that the Human Rights Committee followed the practice of appointing one person to serve as rapporteur on one complaint. The working group was supposed to devote more time to each complaint than could be devoted in plenary. Given that the working group that was to meet prior to the thirty-third session would have a total of 18 complaints to consider, because the Committee had also asked Mr. Yakovlev to look into one complaint that it had considered at the previous meeting, he did not think that the working group could reasonably be expected to find time to do more than prepare those communications. He proposed that the secretariat should produce a document that collated the Committee's jurisprudence as it related to communications. He also proposed that arrangements be made for two pre-sessional working groups to meet, simultaneously, prior to the Committee's thirty-fourth session in May 2005, and that all the members of the Committee plan to attend at that time.

34. Mr. PRADO VALLEJO noted that the Human Rights Committee always had two working groups, one with responsibility for the admissibility of complaints, and one which dealt with other issues; that approach had proved effective in helping the plenary to move forward.

35. The CHAIRPERSON said he would request that the necessary arrangements be made for two working groups to be convened prior to the thirty-fourth session of the Committee in May 2005. He encouraged members of the Committee who did not normally take part in the pre-sessional working group to do so, in order to facilitate rotation in the group's composition.

36. It was so decided.

37. The CHAIRPERSON said that the Committee might consider drafting a general comment on article 16, as well as one on diplomatic arrangements. The effectiveness of the preparation done by the working group would be enhanced if it was provided with information about the jurisprudence of the Committee and of other human rights bodies.

38. Ms. GAER said that she had noticed that the Committee had received a number of letters from NGOs in response to an initial draft for a general comment that had been circulated; she wondered whether the Committee would not be exposing itself to criticism if it asked NGOs for their feedback without also asking States parties for their comments.

39. The CHAIRPERSON suggested that the Committee might wish to hold a meeting with States parties, as it had done once before. Although consulting States parties was entirely right and proper, it was important that States parties were not allowed to commandeer the process; final responsibility for the content of general comments should remain with the Committee.

40. As he understood it, the Committee had reached the conclusion that the remit of the next pre-sessional working group would be confined to consideration of individual complaints, and that it would do so, with the help of the secretariat, on the basis of jurisprudence. The Committee would consider at its thirty-third session which aspects of its working methods it wished to ask a working group on organizational and other matters to discuss.

41. It was so decided.

42. Mr. RASMUSSEN noted that the meeting of the European Committee for the Prevention of Torture (CPT) normally took place the week before the Committee's session in November every year. Therefore, as long as he was a member of both committees, he would be unable to participate in a pre-sessional working group. In November 2005, the sessions of the two committees would overlap, and he had therefore requested that the secretariat move the session scheduled to begin on 7 November 2005 back by one week. He had already approached the CPT, which was unable to reschedule its session. He would be interested to hear if any members of the Committee objected to the change of dates.

43. Ms. RUEDA-CASTAÑÓN (Secretary of the Committee) said that, if the Committee agreed to the change, the matter could be arranged with Conference Services, as there was sufficient notice.

44. The CHAIRPERSON said that the proposed new dates were from 14 to 26 November 2005. It was the first time that the Committee proposed changing its schedule, which would set a precedent. Although in that particular case he saw no problem, the Committee should not, as a rule, change its dates to fit in with the CPT.

45. Mr. RASMUSSEN said that that was the first time that the two committees' meetings would overlap. In 2004, the Committee's session was scheduled to begin on 15 November, and the CPT's the week before. He did not understand why there had been a change in dates for the CPT's 2005 session.

46. Mr. PRADO VALLEJO said that he understood the reasoning behind the proposed change, but it was necessary to take into consideration not only the meetings of other bodies, but also the personal commitments of each Committee member. In his own case, as a university professor, he informed the university of his availability in advance, and could not change his dates.

47. Ms. GAER said that the dates in November were always inconvenient for anyone coming from the United States, as they fell during the holiday period, and the United Nations human rights bodies reported to the General Assembly at the same time. It would therefore be impossible for her to attend the working group. She wondered whether it might not be more convenient to change the whole meeting schedule; instead of meeting in November and May, perhaps the Committee could meet in October and April or September and March, for example. She also proposed that the working group should meet at a time not adjacent to the session, so as to facilitate rotation of the membership. Regarding November 2005, the Committee should perhaps send a letter to the Chairperson of CPT, requesting that CPT should alter its dates if at all possible.

48. The CHAIRPERSON said that, although it might be possible to change the dates of the Committee's sessions from May and November, that could not be done in time for the 2005 meetings. In any event, it would be difficult to find dates that suited all members.

49. Mr. RASMUSSEN suggested that the Committee should decide only on the dates for November 2005, and postpone a discussion on its meeting schedule in general.

50. Mr. MAVROMMATIS agreed that the Committee should try to change the months in which it met. More immediately, it should alter the dates of its November 2005 session in order to accommodate Mr. Rasmussen.

51. The CHAIRPERSON said that there was no jurisprudence on the issue of meeting dates and decisions would be made on a case-by-case basis. If there were no objections, the Committee could reschedule its November 2005 session as requested by Mr. Rasmussen.

52. It was so decided.

The public part of the meeting rose at 5.10 p.m.