



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

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COMMITTEE AGAINST TORTURE

Twenty-eighth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 510th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 3 May 2002, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the closed part of the meeting appears as document
CAT/C/SR.510/Add.1.

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The meeting was called to order at 10.05 a.m.

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

Second periodic report of Venezuela (continued) (CAT/C/33/Add.5)

1. The CHAIRMAN said that the Committee had been due to consider the second periodic report of Venezuela but the delegation, which should have come to introduce it, was unable to do so. The Venezuelan Ambassador in Geneva had been kind enough to come and explain the situation to the Committee.
2. The members of the delegation of Venezuela took places at the Committee table.
3. Mr. RODRIGUEZ (Venezuela) assured the Committee of Venezuela's unfailing commitment to the cause of human rights and its respect for the Convention and all the other international human rights instruments to which it was a party. A specialized delegation comprising senior members of important Venezuelan State institutions had been scheduled to present the second periodic report, but the events that had taken place in Venezuela between 11 and 13 April, while not provoking a constitutional crisis, had nevertheless caused administrative and bureaucratic delay, which was why Venezuela had requested that consideration of the report should be postponed. The delegation had prepared an updated supplementary report, which had been submitted in September 2000, and the Permanent Mission stood ready to provide any further information the Committee might require.
4. Mr. GONZÁLEZ POBLETE thanked the Venezuelan Ambassador for having taken the time to come and explain the reasons for the contretemps that had arisen and said that the Committee quite understood the situation. It awaited with interest the supplementary report to which the Ambassador had referred and would study it closely, in anticipation of the consideration of the second periodic report at the Committee's November session. Following the adoption of the new Constitution in 1999, a number of legislative changes had doubtless been made and an update would prove very useful. The Committee would appreciate the State party's forwarding the supplementary report some weeks in advance of the November session so that it could take account of the material it contained.
5. The Venezuelan delegation withdrew.
6. The CHAIRMAN announced that the Committee would now consider what to include in the draft conclusions and recommendations concerning the report of a certain State party, in addition to one other question under the confidential procedure, whereupon it would resume its public meeting to consider a draft amendment to the rules of procedure.

The public meeting was suspended at 10.15 a.m. and resumed at 11.50 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5)

Consideration of a draft amendment to the Committee's rules of procedure (CAT/C/3/Rev.5)

7. After a discussion in which The CHAIRMAN, Ms. GAER, Mr. CAMARA, Mr. MARIÑO MENENDEZ, Mr. YAKOVLEV and Mr. MAVROMMATIS took part, it was decided to replace the words “communication” and “author of a communication” by “petition” and “petitioner” in English; “communication” and “auteur de la communication” by “requête” and “requérant” in French; “comunicación” and “autor de una comunicación” by “queja” and “autor de una queja” in Spanish; and to make appropriate changes in Russian.

8. The CHAIRMAN invited the Committee to consider the proposed amendments to the rules of procedure concerning the application of article 22 of the Convention.

XIX. Procedure for the consideration of communications received under article 22 of the Convention

A. General provisions

Rule 96 (Declarations by States parties)

9. Rule 96 was adopted.

Rule 97 (Transmission of complaints)

10. Mr. CAMARA noted that paragraph 3 (c) failed to provide for cases in which the victim had died. In accordance with article 14 of the Convention, in the event of the death of the victim as a result of an act of torture, his dependants were entitled to compensation.

11. Mr. MAVROMMATIS proposed, in the light of Mr. Camara's comment, that the word “written” should be deleted from the phrase “appropriate written authorization”, because a deceased victim might not have mentioned his dependants in writing. The words “or by close relatives of the victim” should also be added in paragraph 3 (c) after the phrase “by the victim”.

12. Mr. EL MASRY suggested inserting the phrase “on his/her behalf” after the phrase proposed by Mr. Mavrommatis. In addition, in the first line of paragraph 3, “Committee” should be replaced by “Secretary-General” because the Committee did not register complaints.

13. The CHAIRMAN suggested, in the light of the amendments proposed, that rule 97, paragraph 3 (c), should read: “It is not submitted in writing by the alleged victim or by close relatives of the alleged victim on his/her behalf or by a representative with appropriate written authorization.”

14. Rule 97, as amended, was adopted.

Rule 98 (Lists of complaints; Rapporteur for new complaints)

15. The CHAIRMAN read out the rule, indicating that in the English version “his request” should be replaced by “his/her request”.

16. Mr. MAVROMMATIS noted that the rapporteur for new complaints was not referred to at all.

17. The CHAIRMAN said that the rule could simply be entitled “Lists of complaints” and that, in paragraph 3, “one or a number of its members appointed for the purpose” could be replaced by “or the rapporteur appointed for the purpose”.

18. Ms. GAER said that, also in paragraph 3, “secretariat” should be replaced by “Secretary-General”. On the decision to register complaints, she understood the rule to mean that the Secretary-General would register the complaint pursuant to a decision of the Committee or the rapporteur. Moreover, it might be better to speak of the decision taken by a rapporteur rather than the rapporteur.

19. The CHAIRMAN agreed that paragraph 3 raised a substantive problem. The secretariat was authorized to reject a complaint if it was anonymous, or if it concerned a State that had not made the declaration, or if it was not submitted in writing. Any other grounds for rejection must originate from the Committee or the rapporteur.

20. Mr. CAMARA said that the confusion stemmed from the use of the word “registered” instead of “received” in the new version of paragraph 3. Perusal of article 22, paragraph 2, of the Convention and the old version of rule 97, paragraph 3, revealed that there were in fact two procedures, namely admissibility, which was a legal decision, and registration, which was a physical act. The new version of rule 97, paragraph 3, dealt solely with the physical act of registering the complaint. Its wording should therefore be used, stating either (as in the earlier version) that no complaint should be received by the Committee or included in a list under rule 90, or (following the Convention) that no complaint should be declared admissible by the Committee or included in the list unless it satisfied the specified conditions.

21. The CHAIRMAN said he understood rule 98, paragraph 3, to mean that although the complaint had to be registered by the Secretary-General, the decision on admissibility lay with the Committee or the rapporteur.

22. Mr. de ZAYAS (Office of the High Commissioner for Human Rights) said that Mr. Camara was right to draw a distinction between the two procedures. However, experience had shown that the secretariat should register complaints as rapidly as possible. The role of the rapporteur for new complaints was to take decisions in those few cases in which the secretariat was unsure whether to register the complaint. Rule 98, paragraph 3, provided for that possibility. In any event, registration was an administrative step that should be performed quickly, whereas the decision on admissibility was taken at a later stage.

23. The CHAIRMAN said that rule 97 related to clear-cut cases in which the Secretary-General could decide to reject a complaint. Rule 98, paragraph 3, related to cases in which there was some doubt; it should read: “Complaints may be registered by the Secretary-General or by a decision of the Committee or by a rapporteur appointed”

24. Mr. RASMUSSEN asked why, if it was so important, the reference to registration had been deleted from the title of the rule.

25. The CHAIRMAN acknowledged that, as it stood, the title was confusing; it would be sufficient to speak of registration of new complaints.
26. Mr. MAVROMMATIS said that it was the task of the secretariat to register complaints and to refer each new complaint to the Committee, a working group or a rapporteur for a decision on admissibility.
27. The CHAIRMAN suggested that paragraph 3 should be worded: “Complaints may be registered by the Secretary-General or by decision of the Committee or by a rapporteur appointed for the purpose of registering or receiving new cases.”
28. Ms. GAER asked how the rapporteur (who was also mentioned in rules 106 and 107) would be appointed and what his or her mandate would be. It should be made clear that the Committee intended to formally appoint one of its members and not simply to assign certain duties to one or more of its members.
29. The CHAIRMAN said that the secretariat proposed to provide the Committee with all the information it would need to establish the rapporteur’s mandate in complete independence. If he heard no objection, he would take it that the Committee wished to adopt draft rule 98, as orally amended.
30. It was so decided.

Rule 99 (Request for clarification or additional information)

31. The CHAIRMAN read out the rule, pointing out that in English “his request” had been replaced by “his/her request”. In addition, in paragraph 1 (g) of the English version, “is being examined” should be replaced by “is being or has been examined”.
32. Mr. YU Mengjia asked whether, in paragraph 1 (g), it might be preferable to replace “the extent to which” by “whether”.
33. Ms. GAER said that, in accordance with established practice, if a matter was being examined under another international procedure, the Committee would not consider it admissible.
34. Mr. MARIÑO MENENDEZ endorsed Mr. Yu Mengjia’s proposal and recalled that, in accordance with article 22, paragraph 5 (a), of the Convention, the Committee would not consider a complaint unless it could be sure that the same matter had not been, or was not being, examined under another international procedure. Given the Convention’s explicitness on that point, it would not be desirable to introduce a nuance that tended to undermine that provision.
35. Mr. de ZAYAS (Office of the High Commissioner for Human Rights) said that the Human Rights Committee had frequently had to decide whether a complaint referred to it was being, or had already been, examined by the European Court of Human Rights or the Inter-American Commission on Human Rights. The Human Rights Committee had already ruled one complaint inadmissible because the complainant had submitted one part of his complaint to the Inter-American Commission and the other to the Committee; it had held that the complainant ought to have referred the whole of his case to one or the other body. In its recent

decision on State party reservations, the Human Rights Committee had specified that it interpreted “same matter” to mean the same complainant, the same facts and the same legislative provisions invoked; in other words, when the provisions of the Optional Protocol to the International Covenant on Civil and Political Rights went further than the European Convention on Human Rights, the same matter was not involved. That said, it was obvious that the issue was a delicate one and the secretariat would endeavour to obtain fuller information so as to enable the Committee to substantiate its decision.

36. The CHAIRMAN said that he had no objection to replacing “the extent to which” by “whether”, because he believed that the Committee possessed a considerable degree of latitude in the matter. In view of the lateness of the hour, he suggested that further consideration of the proposed amendments to the Committee’s rules of procedure should be continued at a subsequent meeting.

37. It was so decided.

The meeting rose at 1 p.m.