

REPORT OF THE COMMITTEE AGAINST TORTURE

GENERAL ASSEMBLY

OFFICIAL RECORDS: FORTY-FOURTH SESSION

SUPPLEMENT No. 46 (A/44/46)



UNITED NATIONS

New York, 1989

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

[8 June 1989]

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I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Convention

1. As at 28 April 1989, the **closing** date of the second session of the Committee against Torture, there were 41 States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention was adopted by the General Assembly in its resolution **39/46** of 10 December 1984 and **opened** for **signature and** ratification in New York on 4 February 1985. It entered into force on 26 June 1987 in accordance with the provisions of its article 27. A list of States that **have signed, ratified** or acceded to the Convention, together with an **indication** of those that have made declarations under articles 21 and 22 of the Convention, is contained in annex I to the present report.

B. Opening and duration of the session

2. The second session of the Committee against Torture was held at the United Nations Office at Geneva from 17 to 28 April 1989,

3. The Committee held 17 meetings (8th to 24th meeting). An account of the deliberations of the Committee is contained in the relevant **summary** records (CAT/C/SR.8-24).

C. Membership and attendance

4. The membership of the Committee remained the same as during 1988. The list of the members, together with an indication of the duration of their term of office, appears in annex II to the present report.

5. All members attended the second session of the Committee, however, Mr, **Alfredo R. A. Bengson**, Ms. Christine Chanet, As, Socorro **Díaz Palacios** and Mr, **Ricardo Gil Lavedra** attended only a part of the session.

D. Solemn declaration by members of the Committee

6. At the 8th meeting, on 17 April 1989, two members of the Committee, namely, **Mr, Alfredo R. A. Bengson** and **Mrs. Díaz Palacios**, who were **not** able to do so during the first session, made the solemn declaration upon assuming their duties, in accordance with rule 14 of the provisional rules of procedure,

E. Election of the third Vice-Chairman of the Committee

7. At its first session, the Committee agreed to defer the election of its third Vice-Chairman until its second session. In accordance with rules 15 and 16 of the provisional rules of procedure, the Committee, at its 9th meeting, on 17 April 1989, elected **Mr. Bengson** as Vice-Chairman for the remainder of the two-year term (1988-1989), beginning with the Committee's first session. The officers of the Committee at its second session were the following:

Chairman: Mr. Joseph VOYAME

Vice-Chairmen: Mr , Alfredo R. A. BENGZON
Mr. Alexis DIPANDA MOUELLE
Mr. Ricardo GIL LAVEDRA

Rapporteur: Mr. Dimitar N. MIKHAILOV

F. Agenda

8. At its 8th meeting, on 17 April 1989, the Committee adopted the items listed on the provisional agenda submitted by the Secretary-General (CAT/C/5) as the agenda of its second session. The agenda of the second session, as adopted, was as follows :

1. Solemn declaration by members of the Committee.
2. Election of the third Vice-Chairman of the Committee.
3. Adoption of the agenda.
4. Organisational matters.
5. Consideration of reports submitted by States parties under article 19 of the Convention.
6. Submission of reports by States parties under article 19 of the Convention.
7. Adoption of the rules of procedure of the Committee relating to its functions under article 20 of the Convention.
8. Consideration of communications under article 22 of the Convention.
9. Future meetings of the Committee,
10. Annual report of the Committee on its activities.

G. Organization of work

9. The Committee considered the organization of its work at its 8th meeting, on 17 April 1989. It discussed, in particular, the procedure to be followed during its consideration of initial reports- submitted by States parties under article 19 of the Convention.

10. The Committee agreed that representatives of reporting States invited in accordance with rule 66 of its provisional rules of procedure would be given the opportunity to introduce the reports submitted by their Governments and to provide, if necessary, additional and updated information. The oral presentation of each report should not exceed 30 minutes.

11. Members of the Committee would, then, discuss the report and raise questions of a general nature followed by detailed questions on the implementation of the

provisions of the Convention. The discussion should not exceed two hours. Questions should **be** raised **in** an orderly manner to facilitate the dialogue with the reporting State. They should, in particular, follow the order **in** which articles of the Convention **are** enumerated and contain **referencea** to the relevant sections of the report under consideration. The Committee also agreed that reporting States should provide information **on** the definition of torture, as well as **on the** definition of cruel, inhuman or degrading **trnatment or** punishment as they appear **in** their domestic legislation. In addition, they should provide the text of **the relevant** provisions of their national penal codes and inform the Committee *on the* actual application *of* those provisions by **the** judiciary.

12. The representatives **of** the reporting States would be given an opportunity to reply orally to questions raised and observations made **by** members of the Committee or to refer them to their Governments for additional information to be **provided** to the Committee in a written **form**.

13. The Committee would then conclude its consideration **of** reports submitted **by** States parties by making such general comments on the reports as it **may** consider appropriate, in accordance **with** article 19, paragraph **3**, **of** the **Convention** and rule 68 of its rules of procedure.

14. The Committee further agreed that it **may** apply certain flexibility **in** its procedure **on** the basis *of* the experience developed with regard to its consideration of reports submitted by States parties.

H. Exchange of views between the Committee and the Special Rapporteur of the Commission on Human Rights on question8 relating to torture

15. The Committee held a preliminary discussion on this issue *at* its 10th **meeting**, on 18 April 1989. It then exchanged views with Mr. Kooijmans, Special Rapporteur *of* the Commission **on** Human Rights **on** questions relating to torture, at its 11th meeting *on the* same date. In this **connection**, the Committee had **before** it the reports submitted by the Special Rapporteur to the Commission on Human Rights at its forty-fourth and forty-fifth *session* (**E/CN.4/1988/17** and **Add.1** and **E/CN.4/1989/15**) as well as Commission resolutions 1985133, **1/ 1988/32 2/** and **1989/33. 3/**

16. In its preliminary discussion, the Committee considered the question of ways of establishing useful co-operation with the Special Rapporteur in order to promote and strengthen the effectiveness of the work **they** were doing in support *of* the **cause** of combating torture. Some members *of* the *Committee* pointed out that the Special Rapporteur's activities might overlap with those of the Committee, and recalled **that** the Special Rapporteur's functions related to the study of the problem of torture in the general context *of* violations of human rights *in* any part of the world, while the Committee's functions related exclusively to the implementation of the Convention by States parties and to specific cases *of* violations of the Convention in those States. In any event, the information contained in the **reports** of the Special Rapporteur might be taken into account by the Committee. The Special Rapporteur, in turn, could **consider** specific **measures** to encourage States that had not **yet** done so to ratify the Convention.

17. In his intervention before the Committee at its 11th meeting, the Special Rapporteur pointed out that, since the scope of his mandate was not restricted to States parties to the Convention, he was entitled to seek information from all Governments as to what legislative and administrative measures they had taken to eradicate torture. His recommendations were usually very general. Only when he had visited a country, were his recommendations directed at that specific country. His mandate also entitled him to receive information from intergovernmental organisations and non-governmental organisations regarding specific cases of alleged torture. In that respect, there was a clear difference between the mandate of the Special Rapporteur and the mandate of the Committee, since under article 22 of the Convention, complaints by persons claiming to be **victims** of torture could be brought to the attention of the Committee only if all local remedies had been exhausted, while he was entitled to take immediate action on cases of torture brought to his attention and to resort to the urgent-appeals procedure to the Government concerned. He further stated that **he** was not in a position to carry out investigations. His mandate was humanitarian and preventive in nature and he saw no possibility of duplication with the work of the Committee. In this connection, he pointed out that his visits to countries had taken place at the invitation of their respective Governments and were of a consultative character: an investigation carried out by the Committee under article 20 of the Convention would have quite a different character. He also expressed the opinion that useful co-operation between the Committee and himself could be established on **matters** of mutual concern, such as what kind of treatment actually constituted torture and cruel, inhuman, or degrading treatment or punishment.

18. Members of the Committee felt that the functions and the mandates of the Committee and the Special Rapporteur were different, but complementary in **some** respects. One area of activities in which the Committee and the Special Rapporteur could complement each other was the prevention of torture through education, training programmes and the enhancement of public awareness. The public must be made aware that torture was so common as to be the plague of the twentieth century, and law-enforcement personnel should be trained in how to deal with detainees. On the other hand, members of the Committee observed that there were **some** "grey areas" where the actions of the Committee and of the Special Rapporteur might overlap. It was important, therefore, to maintain contact in order to find the best means of achieving co-ordination and complementarity in furthering the difficult task of combating torture. To this effect, the Chairman of the Committee and the Special Rapporteur could consult each other as work progressed. It was also stressed that, as stated by the Special Rapporteur, Governments had difficulties in perceiving two separate and parallel mechanisms. The Committee should be clear about the distinctions and areas of complementarity between itself and the mandate of the Special Rapporteur, but it was **most** important that that clarity be conveyed to Governments so as not to create confusion, particularly in relation to the **matter** of prescriptions and recommendations. Members of the Committee felt that the mandate and functions of the Special Rapporteur should be considered, defined more precisely and clarified by the Commission on Human Rights, taking account of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the powers of the Committee against Torture.

19. In his concluding remark:: the Chairman of the Committee welcomed the opportunity which the meeting had provided for personal contact between the Special Rapporteur and the Committee. He stressed the need for further reflection and the desirability of maintaining close contact, with each party informing the other **of** any action taken, with a view to avoiding duplication and acting on the basis of exchanges of information.

20. As regards the **procedure** to be established ~~an~~ exchange views and information between the Committee and the Special Rapporteur on questions relating to torture, the Committee agreed at its 20th meeting, on 25 April 1989, that informal meetings should be arranged between its Chairman and the Special Rapporteur, if possible in the coming months. The Chairman would then **inform** the Committee on the outcome of those meetings at its next session in November 1989.

21. In addition, the Committee agreed that its Chairman would have a preliminary exchange of views with the Board of Trustees of the United Nations Voluntary Fund **for Victims of Torture**, established by General Assembly resolution **36/151** of 16 December 1981. Subsequently, the Chairman informed the **Committee** at its 22nd meeting, on 26 April 1989, of his preliminary contacts with the Board and suggested that the Committee should revert to the question of an exchange of views with the Board at its fourth session in April 1990.

I . **Consideration of conclusions and recommendations of the meeting of Chairpersons of human rights treaty bodies**

22. The Committee considered this issue at its 20th meeting, **on** 25 April 1989. In this connection, the Committee had before it the report of the meeting of Chairpersons of human rights treaty bodies (A/44/98), which had been convened by the Secretary-General at **Geneva** from 10 to 14 October 1988, pursuant to General Assembly resolution **42/105** of 7 **December** 1987. The Committee also had before it General Assembly resolution **43/115** of 8 December 1988 concerning reporting obligations of States parties to international instruments on human rights and effective functioning of bodies established pursuant to such instruments, as well as resolutions 1989/146 **3/** and 1989/147 **3/** adopted on 6 March 1989 by **the** Commission on Human Rights at its forty-fifth session.

23. The Chairman of the Committee, who had **participated** in the meeting of Chairpersons, outlined the main issues discussed during that meeting and drew the attention of the members of the Committee to its conclusions and recommendations, in particular, those concerning **matters** requiring urgent action, as well as recommendations which appeared to be of direct concern to the Committee, **namely:** (a) financial arrangements which might be necessary to enable human rights treaty bodies to operate effectively) (b) appropriate means to promote and to facilitate the submission by States parties of overdue reports; (c) procedures designed to facilitate regular meetings between treaty bodies and special rapporteurs of the Commission on Human Rights or the Sub-Commission on Prevention of Discrimination and Protection **of** Minorities; (d) the use of individual rapporteurs or co-ordinators and working groups in order to expedite the timely and effective consideration of periodic reports submitted by States parties; and (e) the revision of general **guidelines** regarding the form and contents of reports to be submitted by States parties.

24. As regards financial arrangements to enable human rights treaty bodies to operate effectively, the Committee took note with interest of the relevant provisions of Commission resolution 1989/147 by which the **Commission, inter alia**, requested the Secretary-General to entrust an independent expert with the task **of** preparing a study on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations human rights instruments, taking into account the conclusions and recommendations of the meeting of persons chairing the human rights treaty bodies, to be placed before the

General Assembly at its forty-fourth **session** and the Commission on Human Rights at its forty-sixth session.

25. As regards the appropriate **means** to promote the **submission** by States parties of **overdue** reports, as well as a possible **revision** of **general** guidelines regarding the form and contents of report, to **be** submitted by States parties, **the** Committee **took** a number of relevant decisions under **item 6** of its agenda (see chap. II, **paras. 30-32** of the present report).

26. With regard to possible ways of expediting consideration of reports submitted by States parties, the Committee agreed that it would be **premature** to appoint rapporteurs **to make** a preliminary analysis of the contents of initial reports before they are considered **by** the Committee. However, the question **may be** reconsidered at a later date **when** the Committee will begin its consideration of second periodic reports.

27. **For** the **time** being, the Committee requested the Secretariat to **examine** each report when **received** and, if it was clearly incomplete, to draw the attention of the Government concerned to the possibility of submitting a supplementary report in due **time**.

II. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

28. The Committee, at its 20th and 21st meetings, held on 25 April 1989, considered the status of submission of reports under article 19 of the Convention. In this connection, the Committee had before it the following documents:

(a) Note by the Secretary-General concerning initial reports of 27 States parties that were due in 1988 (CAT/C/5);

(b) Note by the Secretary-General concerning initial reports of 10 States parties that are due in 1989 (CAT/C/7).

29. The Committee was informed that, in addition to the 10 initial reports, which were scheduled for consideration by the Committee at its second session (see chap. III, para. 34), the Secretary-General had received the initial reports of the following eight States parties:

Union of Soviet Socialist Republics (CAT/C/5/Add.11);

Argentina (CAT/C/5/Add.12);

German Democratic Republic (CAT/C/5/Add. 13);

Byelorussian Soviet Socialist Republic (CAT/C/5/Add.14);

Canada (CAT/C/5/Add.15);

Cameroon (CAT/C/5/Add.16);

Switzerland (CAT/C/5/Add.17);

Colombia (CAT/C/7/Add.1).

30. In accordance with rule 65, paragraph 1, of its provisional rules of procedure, the Committee decided to request the Secretary-General to transmit to the States parties, whose initial reports were due in 1988 but had not yet been received, reminders concerning the submission of such reports.

31. The Committee also held a discussion on the general guidelines for the submission of initial reports by States parties (CAT/C/4), which it had provisionally adopted at its first session. Taking into account the experience gained during its second session with regard to the consideration of initial reports, the Committee felt that States parties should be requested to include in their future reports certain important elements, such as: the text of national legislative provisions directly relevant to the implementation of the Convention; information concerning judicial cases; treatment and rehabilitation programmes for victims of torture and the relevant statistical data.

32. The Committee decided to revise at its third session the general guidelines for the submission of initial reports by States parties, on the basis of a draft revision to be submitted by the Secretary-General.

33. A list of States parties, together with an indication of the status of submission of their reports, is contained in annex III to the present report.

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

34. At its second session, the Committee examined initial reports submitted by seven States parties under article 19, paragraph 1, of the Convention. It devoted 10 of the 17 meetings it held during the second session to the consideration of these reports (CAT/C/SR.10-19). The following initial reports, listed in the order in which they had been received by the Secretary-General, were before the Committee at its second session!

Sweden	(CAT/C/5/Add.1)
France	(CAT/C/5/Add.2)
Norway	(CAT/C/5/Add.3)
Denmark	(CAT/C/5/Add.4)
Egypt	(CAT/C/5/Add.5)
Philippines	(CAT/C/5/Add.6)
Mexico	(CAT/C/5/Add.7)
Senegal	(CAT/C/5/Add.8)
Hungary	(CAT/C/5/Add.9)
Austria	(CAT/C/5/Add.10)

35. At its 8th and 15th meetings, on 17 and 20 April 1989, the Committee agreed, at the request of the Governments concerned, to postpone to its third session consideration of the initial reports of France (CAT/C/5/Add.2), Hungary (CAT/C/5/Add.9) and Senegal (CAT/C/5/Add.8).

36. In accordance with rule 66 of the provisional rules of procedure of the Committee, representatives of all the reporting States were invited to attend the meetings of the Committee when their reports were examined. All of the States parties whose reports were considered by the Committee sent representatives to participate in the examination of their respective reports.

37. In connection with its consideration of reports, the Committee also had before it the following documents;

(a) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and reservations and declarations under the Convention (CAT/C/2);

(b) General guidelines regarding the form and contents of initial reports to be submitted by States parties under article 19 of the Convention, which were provisionally adopted by the Committee at its first session and transmitted to the States parties (CAT/C/Q).

38. The following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports, contain summaries based on the records of the meetings at which the reports were considered. More detailed information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

Sweden

39. The Committee considered the initial report of Sweden (CAT/C/5/Add.1) at its 10th and 11th meetings, held on 18 April 1989 (CAT/C/SR.10-11).

40. The report was introduced by the representative of the State party who stated that, as one of the initiators of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Sweden was pleased to be the first State party to present its initial report to the Committee. He also recalled that his Government had made a declaration provided for under article 22 of the Convention.

41. The representative explained the principles and procedure for the implementation of international treaties in his country, stating that such treaties did not automatically become part of Swedish law, but had to be formally incorporated into its statutes. This was not necessary, however, where the law already contained provisions that satisfied the requirements of a treaty, as was the case regarding the obligations under the Convention, which had been ratified in January 1986 without the enactment of new legislation.

42. With regard to new developments in the field of legislation occurring since the drafting of the report, the representative referred to several bills recently passed by or at present being considered by the Swedish Parliament. The Parliament was currently considering a bill on a revised Aliens Act, containing a provision to make more explicit the protection of an alien from expulsion to a country where he risked political persecution or torture, as referred to in article 3 of the Convention. A further bill, bearing on article 4 of the Convention, contained a proposal to extend the offences considered as misuse of authority whereby an offence did not have to cause damage to be punishable under the Penal Code.

43. Legislation had also been enacted, relating to article 6 of the Convention, concerning the obligation to notify another State in the event of the deprivation of liberty of a national of that State. Another new act would enter into force by the end of 1989, which concerned protection against communicable diseases and which contained provisions relevant to article 16 of the Convention.

44. The members of the Committee welcomed the report, which was well presented and reflected the pioneering role of Sweden in the field of human rights, and thanked the representative for his introductory statement. They felt, however, that despite the clarity of the report there were certain areas that needed further elaboration, for example on the question of the incorporation of treaties into domestic legislation.

45. Members of the Committee commented, in general, that the report contained many repetitions of legal provisions, and they wished to know more about the practical application of the Convention in the country. Members asked, in particular, whether there were any difficulties in implementing the obligations provided for under the Convention. The question was asked whether it was possible for the liberal nature of Swedish law towards offenders to lead to new crimes. Members requested information on whether errors were made by judicial bodies or officials, and if so, what legislative existed to prevent such errors. Members also wished to know what would happen if a person claimed to have been subjected to illegal

practice, and prosecution did not take place. Lastly, they asked whether the merger of civil and criminal proceedings would be detrimental to an alleged torture victim.

46. With specific reference to articles 1 and 2 of the Convention, the members then asked whether the Swedish Constitution included the definition of an act of torture and if it was **in** conformity with that contained in the Convention. They wished to **know** if punishment of the crime was specifically **referred** to in Swedish **legislation**. The members asked for further **information** on whether the prohibition **on** torture was as broad as the Convention stipulated, particularly regarding threats to third persons. A question on the legal status of prison doctors **was** raised, especially **in** connection with an **order** to force-feed a prisoner **on** hunger strike that the prison doctor would refuse to apply. Noting that, **failing a** prosecutor's **decision** not to prosecute, a torture victim **is** free to institute proceedings, members asked what machinery existed to assist a victim in such circumstances. They inquired about the scope of the provision **for** criminal liability of a person ordered to **commit** an act of torture. They also wished to know whether the isolation of a prisoner was **considered** as cruel, inhuman or degrading treatment **in** Sweden.

47. With reference to article 3 of the Convention, members wished to know who determined the expulsion or extradition of an alien. They asked for elaboration on the special **reasons**, referred to in the report, for refusing to allow **an** alien to remain in Sweden. Clarification was also sought on whether an alien would still be expelled if he claimed that a Swedish doctor had **confirmed** that he had been tortured.

48. With reference to article 4 of the Convention, the members asked whether the prohibition on bodily injury is **as** broad as that in the Convention. They also asked whether the fine or two years' imprisonment **imposed for** inflicting bodily injury was considered sufficient punishment in Sweden for an act of torture. Members asked whether the Swedish courts were competent to deal with the interpretation of physical injuries as described in the report. They inquired whether there **were** differences in punishment for those in authority who commit, or order others to commit, an act of torture. Members asked **for** information as to who had the power to **detain** or arrest in the case of complaints against public officials. They also wished to know whether there **were** time-limits for holding people, before trial, in **incommunicado** detention.

49. With reference to articles 5 and 6 of the Convention, members sought clarification **on** whether **Sweden** exercised universality of jurisdiction, particularly regarding torture. They wanted to know whether Sweden would refuse permission for deportation of **someone** accused of torture by another country. More detailed information was also sought on Swedish jurisdiction when an act of torture had been committed in the territory of a third party.

50. With regard to article 10 of the Convention, members asked whether Sweden provided for the **systematic** education of police officers in the recognition of a torture victim, particularly at points of entry into the country. Similarly, they asked whether medical personnel were so trained, particularly regarding those seeking asylum.

51. With reference to article 12 of the Convention, members wished to **know** whether, in preliminary investigations into an act of torture, Swedish law determined a **time-limit for detention**.

52. **In connection** with article 13 of the Convention, members of the Committee asked for **information on the** criteria used by the prosecutor in investigating claims of torture. They also asked for an explanation of the special examination of reports **on** police officers suspected of torture, as referred to **in** the report. They inquired whether limits were placed on **citizens** making complaints to the Discrimination Chnbudsman; furthermore, they **asked** whether there were procedural **differences** between the Discrimination Ombudsmen and the Parliamentary Ombudsmen.

53. With reference to article 14 of the Convention, members inquired whether rehabilitation **for** torture victims was also **gfven** to refugees in Sweden. In addition, they asked whether there were possibilities for the medical rehabilitation of torture victims, and not simply **monetary** compensation. They also inquired whether, under the compensation provisions, there were any limits on recovery and what were the broad limits **for** compensation under statutory law.

54. In relation to article 15 of the Convention, **members** asked for detailed information **on** existing legislation that would invalidate a **confession** made under duress, with **particular reference** to a declaration m&de by a victim of torture before trial.

55. With reference to article 16 of the Convention, **members** asked whether statistics were available covering the number of public officials who, in 1988, **were** prosecuted for allowing, or committing, acts of torture. In particular, they **asked** about the law regarding police officers who abused their powers. Members **asked** for detailed information on the provisions covering those held **in** psychiatric care, whether they lost their civil rights in such circumstances, and the extent of the role of such a person's family in **his** compulsory care. **Clarification** on the Swedish position on **communicable** diseases was also requested, particularly regarding the isolation of patients or compulsory hospitalisation.

56. Lastly, it was asked, whether specific legislation was envisaged in Sweden to **give** effect to the provisions of article 23 of the Convention.

57. **In** response to the general question⁶ raised by members of the Committee, the representative confirmed that the Convention had not been **incorporated** into Swedish law because the existing legislation adequately covered the obligations under the Convention.

58. The representative acknowledged that the report contained many repetitions of legal provisions; this **was** because Swedish legislation was structured differently from the Convention, and a provision might have to be taken up under different articles in the Convention. Furthermore, legislation had been described in detail in the report in order to assist the Committee members in their **work**.

59. The representative said that his Government had not encountered any difficulties in implementing its obligations under the Convention because of the way Swedish legislation had been enacted **before** the ratification of the Convention and also because of the way practice was applied under the legislation.

60. Responding to the implication that the liberal treatment of offenders might be conducive to the occurrence of acts of torture, the representative stated that the deterrent effects of prison sentences was an issue subject to great debate. In Sweden, however, the provisions governing the treatment of prisoners for acts of torture were the same as for those governing the treatment of offenders in general. He said that if an act of torture was committed by a police official, not only would he be liable to imprisonment, but he would also be dismissed from his post.

61. The representative added that errors committed by judicial officials would be the same as for an ordinary offender and would, if proven, result in loss of employment.

62. He further explained that a decision not to prosecute in an alleged case of torture was taken by the local prosecutor, but the alleged victim could, under the Penal Code, make an appeal against this decision to a higher prosecutor and then to the chief State prosecutor.

63. Regarding the merger of civil and criminal proceedings, the representative pointed out that there were a number of advantages to the victim to merge his claims; for in such an event the costs of an investigation were borne by the State. A person could, however, pursue his own claim for damages separately from the criminal proceedings.

64. Turning to the questions asked by Committee members on specific articles of the Convention, the representative replied to questions raised under article 2. He stated that the prohibition of torture was a fundamental provision under the Swedish Constitution, and no legislation could be enacted at variance with this. Furthermore, the Penal Code specified torture as a criminal act. Commenting on whether the prohibition was as broad as the Convention in relation to threats to a third person, he said that the criminal act of torture was always punishable, and the Penal Code covered acts directed to a third person. With regard to the legal status of prison doctors compelled to force-feed a prisoner, he said that there were no prison doctors as such in Sweden. He said that all doctors, while subject to the Penal Code like other citizens, practised under an ethical code; if a doctor broke this code he would lose his medical licence. In Sweden, therefore, a doctor was under no obligation to follow orders, and must act according to his own ethical code. In reply to the question on a decision not to prosecute, the representative stated that this would be based on the evidence available to the prosecutor in the particular case and nothing else. On the question of criminal liability as a result of obeying orders, he said this was clearly indicated in the report, but that because of its serious nature, inflicting torture would not qualify a person for exemption from criminal liability.

65. With reference to questions raised by members on article 3 of the Convention, the representative stated that, although the provisions of the Aliens Act were very detailed, in general the police authorities at the points of entry or the national immigration board determined entry and expulsion of aliens. Furthermore, there was always the possibility for an appeal against such decisions, which could be taken as high as to the Government itself. The special reasons that might warrant the refusal of a request to remain in Sweden involved the security of the realm or related to a person who had committed a grave crime,

66. Responding to questions asked by members on article 4 of the Convention, the representative wished to clarify the important question of the penalty for acts of

torture, In Sweden, such acts would be considered as aggravated assault or battery, for which the maximum penalty was 10 years; the report referred to simple assault carrying a much lower penalty. He stressed that acts of torture were not regarded leniently in Sweden but were treated very seriously. The description of physical injuries quoted in the report, on which a question had been raised concerning the competency of the Swedish courts, were those contained in Swedish legislation. Regarding the responsibility of superiors ordering others to commit torture, he explained that, if relevant evidence was available, such a person would be found guilty of instigating, or acting as an accessory to, the crime of torture, or could be found guilty of negligence. Regarding the measures taken in the event of complaints against public officials, he said that the prosecutor took action if a criminal act was suspected; if not, the victim could make a complaint to the Ombudsman, which could result in the official being dismissed from his post. On the question of time-limits of detention before trial, the representative stated that detention was reconsidered at short regular intervals by the courts, and requests for prolonging detention had to be strengthened on each occasion.

67. With reference to articles 5 and 6 of the Convention, and, in particular, the question of universality of jurisdiction, the representative stated that chapter 2 of the Penal Code gave wide powers to the courts to try cases of torture; it also gave jurisdiction over aliens if the penalty exceeded six months. He explained that extradition always took place at the request of another State, and that Swedish legislation allowed for extradition to another State even without a reciprocal extradition agreement. He explained, further, that expulsion must be decided by a Swedish court as a sanction; the courts could take such a decision by imposing a penalty on a person found guilty of an act of torture. Regarding a crime committed in the territory of the third party, he said that if the person involved could be found, the Government would be approached by the public prosecutor and would ask for extradition of the person concerned, the granting of which would depend on the existing legislation in the other country.

68. In response to questions raised by members on article 10 of the Convention, the representative stated that, although he believed that the education of police officers in the recognition of torture victims lived up to the obligations of the Convention, it could be improved and the suggestion made would be reported to the persons responsible in his country. Similar training for medical personnel was a more difficult area, but a special organization of forensic doctors existed in Sweden who had a duty to assist the police authorities, the prosecutor, and the courts in judging assault.

69. Referring to questions raised by members on article 12 of the Convention, the representative gave a detailed explanation of the stages involved when a person was apprehended on suspicion of committing torture, i.e., from the police through the police prosecutor, to the courts. The decision on detention had to be taken four days after arrest.

70. With reference to questions asked by members concerning article 13 of the Convention, the representative explained that the special examination of reports on police officers, as mentioned in the report, meant that preliminary investigations into officers suspected of illegal practice, would be made by independent officials, for example, a police authority from another town. He further explained that the difference between the Parliamentary and the Discrimination Ombudsman was that the former could report an act of torture to the prosecutor for possible

prosecution and the latter played a more conciliatory role, for example, in advising people on legal action and promoting good relations between ethnic groups.

71. In response to questions raised on article 14 of the Convention, the representative said that the **Government** or other public authorities compensated a victim of negligence by a public official. There are no upper limits in Swedish legislation for such compensation. It8 stated that medical care in Sweden was available to all those residing in the country, of whatever nationality.

72. On questions raised by members relating to article 15 of the Convention, the representative pointed out ~~that~~ there were no rules prohibiting a confession made under duress, but in practice ~~such~~ a confession would be given little value in court. The prosecutor, however, must investigate all such claims made by those in custody, so that although there ~~was~~ no specific legislation on this point, the free evaluation of evidence had the **same effect**.

73. With reference to questions ~~asked~~ by members on article 16 of the Convention, the representative stated that he ~~was~~ unable to provide statistics on the number of acts of torture committed by police officials, although such cases had been known to occur. He stated that the public prosecutor, other professional bodies, and the courts dealt with investigations into cases of police officers suspected of torture. Torture victims could appeal, **if dissatisfied** with the result of such investigations, to a higher authority, for **example**, the Ombudsman. On the question of the mentally ill, in compulsory care, he said that such people did **not** lose their civil rights) furthermore, decisions regarding compulsory care should be reviewed by a doctor and a board at regular intervals and such a board had the status of a court and its chairman was a qualified judge8. Similarly, any such review would consider requests **made by** the family of a person in compulsory care. He further explained that the new Swedish legislation ~~relating~~ to communicable diseases, which had been enacted recently, provided that doctors had a duty to inform their patients about treatment, and only as a last resort would compulsory care take place. Such a decision was taken by an administrative court, but practice has shown that only a few cases had been ~~made~~, all of which involved addicts.

74. Responding to the question raised on article 23 of the **Convention**, the representative stated that the **same privileges** and immunities would be given to members as were given to experts on mission under United Nations rules. These immunities were incorporated into **Swedish** law in 1976 when Sweden ratified the Convention on the Privileges and Immunities of the United Nations.

75. The members of the Committee thanked the representative of Sweden for his detailed response to the questions raised. The Chairman congratulated the delegation on its excellent, ~~reprt~~ which could serve as **a** model for other reporting States.

Norway

76. The initial report of Norway (CAT/C/5/Add.3) was considered by the **Committee** at its 12th and 13th meetings, held on 19 April 1989 (CAT/C/SR.12-13).

77. The report was introduced by the representative of the State party who informed the Committee that, since the preparation of the report, the Government,

in early 1989, had made a decision of principle that the main international **instruments**, in the field of human rights to which Norway was a party should be incorporated into Norwegian legislation. He further informed the Committee that investigative boards to handle allegations of **offences** by police officers and public prosecutors were now established in all parts of the country.

78. The Committee expressed the view that the report of Norway, although precise, was, however, rather brief, and that sufficient information had not been given to enable the members of the Committee to determine whether the Norwegian legislation was in conformity with the Convention. The **Committee also expressed the view** that, for it to be able to judge the report, the reporting State should provide the texts of **the** legislations and constitutional provisions mentioned in the report. The Committee wished to know in particular, the relation between **the** Norwegian domestic law and international conventions.

79. Members of the Committee asked whether "torture" was defined in Norwegian legislation and whether it was envisaged to make **torture** a specific crime **under** the Norwegian penal law. It was also asked why **the** provisions of the Military Penal Code on superior orders, referred to in the report, also applied to civil offences. **Further** explanation was sought on the question of extraterritoriality of the crime of torture under Norwegian penal law.

80. Members of the Committee further asked whether information and **instructions** concerning human rights were given to **police** officers, soldiers and personnel of prisons and whether the police at the borders were given special instructions to be able to identify a victim of torture.

81. As regards the special investigation boards that investigated allegations of torture by the police officers or the public prosecutors, which had been mentioned by the representative of the reporting State in his introductory statement, **members wanted** to know who appointed the members of the boards and what their qualifications were and whether these boards ^{were} permanent or **ad hoc**. In addition, they wished to know whether these boards also investigated allegations of torture by the **army** and **security** officers. In that respect it was asked whether the investigation of alleged police brutality in Bergen, referred to in the report, had been concluded.

82. As regards article 3 of the Convention, members of the Committee asked whether under the new **Aliens** Act of 1988 an alien who was considered a threat to national security could be returned to his country even if there was the risk that he would be tortured or killed. Members Of the **Committee expressed the view** that **the** penalty of six months provided for by the Norwegian Penal Code **was** rather short for the crimes of torture, and in that regard asked whether the Norwegian Penal Code of 1902 provided sufficient protection against the phenomenon of torture.

83. Moreover, the Committee wished to know whether, in view of the fact that injury to victims of torture was not only limited to physical injury, but more often involved also mental and Psychological damage, the rehabilitation scheme of Norway took into account these other elements and whether specialists in these **fields** were made available to victims of torture. Members of the Committee **asked whether**, in view of the narrowness of the compensation provisions in Norway, compensation was only limited to financial loss, or was mental rehabilitation also compensated.

84. In relation to article 14 of the Convention, information was sought as to whether **only citizens** of Norway can **claim** compensation for acts of torture or did non-citizens residents also have the same rights.

85. The representative of the reporting State, in responding to the questions raised by the **members** of the **Committee**, stated that the **comments** made by them would be taken into account in the preparation of the future reports of his country, not only under the Convention against Torture but also under other **human** rights instruments to which Norway was a party,

86. As regards the relation between international conventions and domestic law, the representative stated, that although in theory international law in general was not considered as part of Norwegian internal law, in practice Norwegian courts interpreted the latter in such a way as to avoid conflict with international norms. He explained that Norway was currently in the process of giving formal recognition to that situation, and it was **likely** that a special act of Parliament would be adopted for that purpose.

87. The representative stated that, since there was no definition of torture in Norwegian domestic law, all legal provisions referred to in the report would **in** principle be applicable to any forms of cruel, inhuman or degrading **treatment** or punishment. Although the Penal Code contained **no** provision dealing specifically with the crime of torture, section 232 provided that **crimes** involving injuries intentionally inflicted in a particularly painful way should carry a mandatory prison sentence of up to 21 years. He pointed out that that section had been applied in a **number of** cases during the war crimes trials after the **Second** World War. However, it had been rarely used since that **time**. He stated that the Norwegian Government considered that existing legislation was sufficient and had no plans to introduce any new measures specifically relating to torture. He stated that, since Norwegian penal law was based **on** the principle of individual responsibility, section 24 of the Military Penal Code, which provided that superior orders could not constitute the grounds **for** acquittal of the accused, was also applicable to civil offences. In relation to the jurisdiction of the army and the security forces, he explained that there was a clear distinction **in** Norway between the police and the **military**; security forces as **such** did not exist. Members of the army, in addition to being subject to the civil Penal Code, were also subject to the Military Penal Code, which had **more** far-reaching provisions. There was a special ombudsman **for** the armed forces who would be empowered to investigate allegations of torture, although he pointed out that he **was** not aware of any such allegations ever having been made. He explained that all military personnel were **given** instruction in humanitarian law, which included the prohibition of torture. He stated that the translation of the handbook on police and human rights of the Council of Europe, referred to in the report, had not yet been completed, and for the present, the English version of the handbook was being used. He pointed out that Norway provided its police with no specific training in how to identify victims of torture. Where a medical examination was required, it was performed by a doctor.

88. In reply to the question about extraterritorial jurisdiction, he stated that the Norwegian Penal Code contained provisions on the subject that were perhaps the most far-reaching of any in the world. Even offences committed outside Norwegian territory by non-Norwegian courts, provided that the offender was present on Norwegian territory and that the offence was punishable either in the **country** where the act had **been** perpetrated or under Norwegian law.

09. The **representative** stated that the regulations governing the procedures of the special investigating boards required that at least two **members** of the board should be present at all interrogations, which ensured that no undue influence was exercised by the police. In that connection, any decision to instigate action against the police would be taken by the special investigating board or by the Director of Public Prosecutions. In response to the question regarding **allegations** of police brutality in the so-called Bergen **case**, he said that the investigativo commission set up initially had not **had** concrete evidence before it. Although investigations had continued from November 1986 to June 1987, no further evidence had emerged, and the police officer brought to trial had been acquitted. The investigation was still continuing, because the prosecuting authorities now had reason to believe that false accusation had been made.

90. With regard to **section** 15 of the new Aliens Act, quoted in the report, dealing with protection against persecution, he stated that the contents of that section corresponded to the **non-refoulement** provision in article 33 of the 1951 United Nations Convention relating to the Status of Refugees. **4/** The last paragraph of the section contained the exact wording of article 33, paragraph 2, of the Convention, namely, the exclusion clauses, and would be applied accordingly. On the question about extradition, he said that sections 6 and 7 of the Extradition **Act** contained protection against persecution similar to that contained in section 15 of the Aliens Act.

91. The representative of the reporting State **said** that the Norwegian Penal Code, which dated from 1902, was not in need of updating. In fact, the Code, as it now stood, incorporated many amendments and it was kept under continuous review by a standing committee of experts whose task it was to propose any necessary changes.

92. In response to the question about compensation, he stated that compensation to victims of torture was payable initially under the scheme established by the Royal Decree of 1976, referred to in the report. He explained that the scheme applied to all cases where injury had been inflicted on Norwegian territory, regardless of the nationality of either victim or offender. In special cases, compensation could also be granted for injuries inflicted abroad if the victim was a resident in Norway. As a general rule, compensation was not granted for non-economic damage, although the exception to that rule made in cases of rape would undoubtedly also be extended to cases of torture, should any arise. He further explained that in the later stages of any proceedings brought by torture victims, the court would be competent to order compensation to be paid for both economic and non-economic damage, and in the case of damage caused by a public official in the performance of his duties, the State would be considered liable.

93. Finally, the Committee thanked the Government of Norway and its representatives for the detailed information they had provided. It also **stated** that it would be useful for the Committee to have the text of the laws and regulations referred to in the report.

Denmark

94. The Committee considered the initial report of Denmark (CAT/C/5/Add.4) at its 12th and 13th meetings, held on 19 April 1989 (CAT/C/SR.12-13).

95. The report was introduced by the representative of the State party, who recalled that Denmark was the twentieth State to ratify the Convention against

Torture **and** Other Cruel, Inhuman or Degrading Treatment or Punishment, He explained that the reason for the delay in ratification was to ensure that Danish legislation conformed with the Convention, and would not require **De-mark** to make reservations on specific articles. The only change in **jurisdiction** that had **been** necessary was in relation to article 5.

96. The **members** of the Committee welcomed the report, particularly as its **structure** corresponded to the **Committee's** general guidelines for the preparation of **reports**. It was stated that the report positively attested to Denmark's determination to prevent the occurrence of torture. Despite the clarity of the report, and the usefulness of an annex **on** the International Rehabilitation and Research **Centre** for Torture Victims (RCT), the members said that further illustrations of legislative and administrative documents would have been useful. There **were** also certain points in the report on which the **members** requested clarification.

97. Members of the Committee asked, in general, if there was a legal designation of torture in Danish legislation, as it was unclear from the report whether the Convention had **been** incorporated into Danish law. Furthermore, they wished to know if there was a specific prohibition on torture in the Danish Constitution. The report claimed that Danish law considered the abuse of public power as a criminal offence to a far greater degree than provided for in the Convention, and members asked if this meant to a greater degree than **acts** of torture. Clarification was also sought on **why** proof of punishable conduct by a public employee usually affected their employment and whether this meant it did not always affect employment.

98. With reference to article 2 of the **Convention**, members of the Committee inquired about the legal status of a doctor who refused an order to **force-feed** a **prisoner** choosing to die by going on a hunger strike. They asked if the measures to protect Danish **citizens** from **acts** of torture were equally applicable to foreigners. Lastly, members asked if, in a state of war or **international** conflict, the rights of Danish citizens would be **suspended**.

99. With reference to article 3 of the Convention, members asked for more detailed information on the grounds for refusal to expel or extradite a person. In particular, they wished to have more details on the training given to police officers to enable them to recognise whether a person had been tortured or was likely to be so on return to his own country.

100. In relation to article 4 of the Convention, members of the **Committee** asked for elaboration on the term maltreatment. An explanation of the difference between sections 244, 245 and 246 of the Criminal Code was requested. **Members** also asked for clarification on the penalties under 147 of the Criminal Code for confessions made by unlawful means,

101. Referring to articles 5 and 6 of the Convention, members inquired if torture was considered a universal crime, and if, in Danish legislation, this meant **wherever** it occurred and whoever was the victim.

132. With reference to article 10 of the Convention, **members** wished to know if there was an **established** training programme for medical personnel in the recognition of torture. Furthermore, they asked if doctors were **specifically** assigned to military, police or other authorities. Members said that it would have

been useful to have **been** provided with **illustrations** of how the prohibition against torture was considered self-evident in **Denmark**.

103. With reference to article 11, members asked if prisoners were kept in isolation or in **incommunicado** detention. They wished to have clarification on the meaning of oral proceedings in court cases being observed to the widest extent possible. They requested information on whether a medical examination of all prisoners took place at the time of arrest. Members asked for further details on counsels for defence being appointed in all regular criminal **cases**.

104. In relation to articles 12 and 13 of the Convention, members of the Committee wished to have further information **on** the local boards which made investigations into police conduct. They wished to know whether the boards could call **for** investigations into **crimes** committed by police officials and the criminal responsibility **of** such officials. Members also asked for details on whether the Chnbudsmen had conducted **investigations ex officio**.

105. With reference to article 14 **of** the Convention, members stated that it would have assisted them in **their** work if they had been provided with illustrations of **how** the Government of Denmark makes compensation to torture victims, particularly examples of the Act **on** compensation from the treasury.

106. Referring to article 15 of the Convention, **members** of the Committee inquired about the rules on inadmissible evidence generally and whether such rules applied equally to foreigners. They **asked** if there had been cases where the obtaining of **evidence** or confession by unlawful means had been proven.

107. In relation to article 16 of the Convention, members of the Committee wished to know how many torture cases had occurred in Denmark and the number of public officials involved in such cases.

108. Commenting on the rehabilitation of torture victims, members wished to know whether before the establishment of the RCT, the Government had been **involved** in its own rehabilitation programme. Clarification was sought as to the nationality of the victims treated each year by the RCT, as quoted in paragraph 7 of the annex to the report of Denmark.

109. Finally, **on** the grounds that torture is an international crime and as such comparable with genocide and crimes against humanity, the Danish Government was asked whether it was considering the enactment by the Danish Parliament of an instrument specifically incorporating the **crime** of torture into Danish **law**.

110. The representative of the State Party, replying to the general questions raised by members of the **Committee**, stated that the Danish Criminal Code had been amended **in** order to ratify the Convention and that the provisions cited in **the** report represented a specific incorporation of that international instrument. He said that the Constitution, which was difficult to amend, did not specifically prohibit torture, **but** that as the problem had not occurred in Denmark for over 125 **years**, the Government had not found it necessary to introduce the prohibition, since the prevention of torture was covered by existing legislation. In reply to the question on the abuse of public powers being considered to a far greater degree than the Convention, he said this meant that, under the law, it was not necessary to prove that an act of torture had been committed in order to find a public official guilty of the abuse of power, and that even simple assault would lead to a

criminal charge. Therefore, the level of protection under Danish law began at a lower level than the definition of torture in the Convention. Similarly, not every offence on the part of a public official would automatically result in loss of employment; in the case of torture, however, a person could be suspended pending investigation and if found guilty would be dismissed. There was no question of a police officer continuing to be employed after having been found guilty of such an offence.

111. Turning to the specific questions concerning articles of the Convention, particularly those under article 2, the representative commented on a doctor's refusal to feed a prisoner intravenously, saying that a doctor would have to obey orders because section 250 of the Criminal Code made it an offence not to try to save the life of someone in ultimate danger. Although it was not illegal to commit suicide in Denmark, it was a criminal offence to assist someone to do so. Acknowledging that the matter raised ethical problems, he did not agree that to compel a doctor to feed a prisoner intravenously amounted to degrading or inhuman treatment. He confirmed that protection under Danish law from acts of torture applied equally to foreigners. He further confirmed that the Constitution did not contain an emergency clause and derogation from it was not permissible even in times of war.

112. With reference to article 3 of the Convention, the representative said that members of the Directorate of Aliens and the Red Cross, present at all times at airports, were trained to recognize symptoms of torture. The Directorate administered the admission or otherwise of refugees and asylum-seekers, but, if refused admission, a refugee could appeal to the Refugee Board. The Board consisted of representatives from the Ministries of Justice, Foreign Affairs, and Social Affairs, the Refugee Council and the Danish Bar Association and was headed by a high-court judge. The representative stated that doctors rather than police officers should be trained to identify torture victims. Doctors could provide medical certificates of evidence of torture or likelihood of torture if a refugee returned to his own country and such certificates would be placed on the files of the Directorate of Aliens and the Refugee Board.

113. In response to questions raised by members under article 4 of the Convention, the representative explained that section 244 of the Criminal Code dealt with minor offences, covered all classes and carried a maximum two-year sentence; under this section, the intention, not the effect, of an offence was punished. Under sections 245 and 246, if the detention was to render severe damage, the penalty was up to 12 years' imprisonment, which could be increased by 50 per cent if committed by a police officer. The penalty under section 147 for obtaining confessions by unlawful means was three years imprisonment.

114. In relation to the questions raised on article 5 and 6 of the Convention, the representative declared that, under section 8 of the Criminal Code, torture was regarded as a universal crime, regardless of the nationality of the perpetrator or wherever torture was committed.

115. With reference to questions on article 10 of the Convention, the representative explained that the identification and treatment of torture were covered in university courses on forensic medicine. Courses were provided not only for doctors, but nurses, paramedical personnel, members of the Red Cross and the Refugee Council. Such training was geared to a specific group of people and was substantive rather than simply formal training, particularly for police officers

having contact with refugees and asylum-seekers. He further explained that doctors working for police authorities were general practitioners and that there were only seven doctors in the military forces, all of whom hold administrative posts. Commenting on why the prohibition against torture was considered self-evident in Denmark, he said that under the Administration of Justice Act the high professional standards of public and police officials made it obligatory for such officials to regard themselves as belonging to service bodies to help citizens, and to commit acts of torture would run counter to their educational and professional standards.

116. Responding to questions raised by the members on article 11 of the Convention, the representative stated that, in Denmark, prisoners in solitary confinement had access to newspapers, radio and television, to exercise in the open air, and to contact with prison staff, who were distinct from police officials and had no powers of interrogation. Such confinement could not be considered as incommunicado detention or true solitary confinement. Furthermore, the rules on solitary confinement were amended in 1984, providing stricter control of such punishment and ensuring that it was in proportion to the sentence imposed, and in any event must not continue for a period of more than eight weeks. The representative stated that regular criminal cases should be compared with police crimes, for example traffic offences. A counsel for the defence was provided for each defendant accused of a regular criminal offence, for which the State paid the fees. On the question of oral proceedings in court cases, he explained that criminal cases were dealt with by a tribunal consisting of a professional and two lay judges. The jury system was used infrequently and only where there was a possibility of a sentence of more than six years. The only cases not heard orally in courts were appeals against court orders that required documentary evidence.

117. In response to questions asked by the members on articles 12 and 13 of the Convention, the representative described the composition of the local boards in detail. Their function was to create co-operation between the police and the community and help the police integrate into the community. They could make complaints against the police if their conduct was considered unsatisfactory and ask the prosecutor to conduct an investigation into such complaints. Commenting on the function of the Ombudsman, he said that this official could criticise the Government regarding standards in prisons and the treatment of prisoners and so help raise prison standards; the Ombudsman had a preventive influence on complaints occurring in the first place.

118. In response to the request made by members under article 14 of the Convention for illustrations of relevant legislation, the representative assured the members that examples of all pertinent legislation would be provided to the Committee.

119. In reply to questions raised by members on article 15 of the Convention, the representative confirmed that inadmissibility of evidence applied equally to foreigners. He explained that proceedings in court cases were conducted orally, and that police reports on those in custody were not permissible in court, although such reports were available to the court officials if necessary. Should a person claim to have been tortured, the prosecutor was bound to investigate such a claim. No cases of evidence being obtained under torture had been found to have taken place. The representative confirmed that police officials could be prosecuted if they broke such rules and that sections 750 and 752 of the Administration of Justice Act prohibited the use of guileful questions or coercion.

120. The **representative** informed the members that the Government had not had its own rehabilitation programme before the establishment of the RCT. Although it now provided funds to the Centre, the Government's sole role was a supervisory one **concerning** the grants provided to the Centre for the fulfilment of its functions. He responded to the question on the nationality of torture victims treated at the RCT by stating that the necessary anonymity **of** the victims prevented their country of origin being revealed. All that the Government was able to reveal **was** that 35 nationalities had **been** treated so far **and** that none **of** the victims were Danish citizens.

121. In reply **to** the suggestion **of** the **enactment** of a law in Denmark specifically **on** the crime of torture, the representative said that this suggestion would be given serious consideration.

122. The members **of** the Committee thanked the representatives of Denmark for the relevance and detail of their replies to questions, and acknowledged the special role played by Denmark in the rehabilitation of torture victims and in developing international norms in the **area** of human rights. The Chairman thanked the **delegation** for their co-operation and confirmed that the Committee would be aided in its work by the receipt of the texts **of** the **various legal** provisions which had been referred to by the members.

Egypt

123. The initial report **of** Egypt (CAT/C/5/Add.5) was considered **by** the Committee at its 14th and 15th meetings, held on 20 April 1989 (CAT/C/SR.14-15).

124. The report was introduced by the representative of the reporting State who stated that his country ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without **making** any reservation, which **showed** the determination of Egypt to apply all **the** provisions of the Convention. It was **in** that spirit that the initial report of Egypt had been prepared, which without giving **detailed** information on the application of each article of the **Convention** gave only a general picture.

125. The representative **stated** that **since** the **Convention** had become part of the **internal** law of Egypt, the definition *of* torture in article 1 *of* **the** Convention was therefore an **integral** part *of* the Egyptian Penal Law.

126. With regard to article 3 *of* the **Convention**, the **representative** stated that agreements on **extradition** entered into by Egypt with other States provided for particular judicial procedures. Under the Egyptian law, **no** foreign resident would be forced **to** return to any country, including his *own*. He pointed out that there had been no case **of** any person extradited to a country **where** he was likely to be tortured.

127. **The** Committee noted that, although Egypt had ratified the Convention without delay and **had** not made reservation **on** article 20 of the **Convention**, Egypt had nevertheless not yet made the **declarations** under articles 21 and 22 *of* the Convention. Furthermore, members of **the** Committee **observed** that the report did **not** follow the general guidelines it had adopted for the preparation of reports by States parties, and, in particular, did not contain information on the application of each **of** the articles of the Convention.

128, It was noted that the definition of torture of article 126 of the Egyptian Penal Code, mentioned in the report, was **more** restrictive than the definition of **torture** in **article 1** of the Convention. In that respect, it was **asked** whether, since the Convention was **now** an integral part of the law of Egypt, that definition **in** the Egyptian Penal Law had **been** amended. It was also asked whether the provisions of the **Convention** could be directly invoked before tribunals **in** Egypt.

129. The Committee commended the reporting **State** for **having provided** in its report figures relating to complaints of torture which had been received in the last five years **by** the **Office of** Public Prosecutions. It **wished** to know how many of the 450 complaints of torture given in the report had been investigated and how many offenders had been found **guilty** and what was the nature of penalties imposed.

130. The Committee requested further information on the Egyptian judicial **system**: in particular, who had the power to detain a person and for how long could a person be detained before being brought before the court, **and** whether the detainee could communicate with his **family** and had access to legal defence. **Members** of the Committee wished to know what were the different cases of **flagrante delicto** recognised under Egyptian **law** and whether the principle of **habeas corpus** was applicable under the Egyptian legal **system**. The members wanted to know what effects would a state of emergency have on the provisions **of** the Convention.

131. Information was also sought as to whether evidence obtained **by torture** was completely excluded. It was also asked whether the Egyptian penal law **recognized** extraterritorial jurisdiction in cases involving offences of torture and whether extradition would be permitted under the Egyptian law even if the alleged offender would risk being tortured if he was returned.

132. Members of the Committee asked for further information on the nature and modalities **of** fair compensation to torture **victims**, whether that was **limited** only to monetary compensation or whether social and medical assistance was also made available to **torture victims** for their rehabilitation, and whether **medical** centres of rehabilitation **for** torture victims existed in Egypt.

133. The Committee wished to know how the education of public officials mentioned in article 10, paragraph 1, of the Convention was organised, whether information concerning prohibition **of torture** was made available to the general public, and whether **the** Egyptian Government had encountered problems in its implementation of the Convention.

134. With regard to article 11 of the Convention, the Committee sought further information on the mechanism for inspection of prisons, and wanted to know which authority received complaints from inmates of prisons.

135. In response to the questions raised by the members of the Committee, the representative **of** the reporting State emphasized that the Convention had become an integral part of the Egyptian legal **system**. It had been possible for the courts to consider directly the provisions of **the** Convention ever since its **entry** into force. With reference to the 450 cases of complaints of torture mentioned in the report, **he** said that any complaint submitted to the Office of Public Prosecutions was investigated, and, like all other crimes, needed to be proved. **He stated** that 44 officers had already been prosecuted before the criminal courts; other complaints were still under investigation, and evidence might not have been found to support them. **He** assured the Committee that the Office of Public Prosecutions

had investigated those cases and that the results would be incorporated in the written report which he had promised to supply to the Committee.

136. The representative of the reporting State said that the Egyptian judicial system was highly complex, but its main feature was entirely independent. Officials of the Office of Public Prosecutions obeyed no authority other than that of their conscience and had the right to dismiss members of other authorities or judicial bodies. He explained that the guarantee that the accused should be afforded protection was independent of the prosecuting authorities.

137. He stated that any person detained even under the state of emergency must immediately be informed of the reason in writing and be allowed to contact any person of his choice. He should be treated as a detainee, and not as a prisoner who was awaiting trial or had already been sentenced. Detainees were not detained in locations other than recognised prisons. To detain a person elsewhere than in prison was an offence under article 91 bis of the Prison Act. He said that the Egyptian Penal Code and case law clearly stated that it was not permissible to prevent the accused from meeting his defence counsel and that detainees also enjoyed the same right.

138. In response to the question regarding suspension of application of article 2 of the Convention in exceptional circumstances, he said that not even in a state of emergency could the law governing such a situation authorise the crime of torture. Furthermore, the law governing the state of emergency set forth procedures whereby victims might apply for redress before the courts if they had a grievance.

139. He said that the definition of flagrante delicto was given in article 30 of the Egyptian Code of Criminal Procedure, which stated that an act was regarded as being committed in flagrante delicto if the victim pursued the perpetrator or if the perpetrator was pursued by the public or was found to be carrying incriminating instruments, weapons, papers or other evidence, or if he bore marks on his person linking him with the crime.

140. The representative of the reporting State stated that the ill-treatment referred to in the report was a legal term defined in the Penal Code. A separate section of the Code listed all forms of ill-treatment which were punishable if inflicted by public officials. Article 126 of the Penal Code provided that any person who ill-treated another would be punished in the same way as the official who perpetrated the ill-treatment. He stated that there had been various well-known judgements in which accused persons had been acquitted because they had claimed that their confessions had been obtained by torture.

141. He stated with regard to compensation, that both criminal and civil proceedings could continue, with a view to enforcing a penalty and to obtain compensation. The State guaranteed fair compensation, but did not specify the amount of such compensation, which was determined by the judicial authority upon submission of the case. He further pointed out that, with regard to the victim of torture, in addition to its obligation to provide fair compensation, the State tried to eradicate the consequences of such ill-treatment by providing, and paying for, medical treatment. A number of psychiatric treatment centres had been established for victims who were referred there for rehabilitation.

142. In response to questions regarding education and information, he said that Egypt was currently undergoing a sort of scientific renaissance. Police were

trained in a large academy, containing faculties **specializing in various** aspects of police work, social **sciences**, psychiatry and **the** law, Since the Convention was **now** regarded as an integral part of **domestic** law, it was of course on the curriculum of those training institutions. **He** stated that the crime of torture was receiving a good deal of attention in the media,

143. The representative of the reporting State said that Egyptian prisons and their supervision were regulated by the Prison Act (No. 396) of 1956. The Public Prosecutor was the person primarily **responsible for prison** supervision, since he arranged periodic inspections. If complaints were received from prisoners, families or legal **counsels**, prisons were also visited without warning to ascertain whether the law was being applied.

144. In concluding consideration of the report, members of the Committee requested ~~the~~ Government of Egypt to provide copies of judgements delivered in Egyptian courts in cases where torture had been proved, as well **as those judgements** defining ill-treatment, so that the Committee could see how such concepts were understood by Egyptian courts. The Committee also wished to receive the legislative text⁶ that had been referred to by the representative of the reporting State. Finally, members of the **Committee** requested that they be supplied with written replies to **some** of the questions raised by the Committee that had remained unanswered.

Philippines

145. The Committee considered the initial report of the Philippines (CAT/C/5/Add.6) And the **additional** information contained in the second part of the report* at its 14th, 15th and 16th meetings, held on 20 and 21 April 1989 (CAT/C/SR.14-16).

146. The representative **of** the State party, introducing the report, **said** that the process of restoring democracy in the **Philippines** had created the **conditions** necessary for the prevention and elimination of torture, **so** that her country had been able to accede to the Convention less than **four months**⁶ after the peaceful revolution **of** February 1986. A new Constitution had **been** adopted on 2 February 1987, the Congress of the Philippine⁶ had been elected in **May** 1987 and village (**barangay**) elections had been held on 28 March 1989, following the mayoral and gubernatorial elections, thereby completing the establishment of a democratic structure in the space of three years. The **reforms** introduced during that period included the **reorganization** of the judiciary with the appointment of a Supreme Court, the release of all political prisoners, the restoration of the **habeas corpus** procedure, the formation of a Commission on Human Rights and the ratification of a number of international human rights instruments. In addition, the new Philippine⁶ Constitution included a Bill of Rights⁶ specifically prohibiting torture, the **use** of force, violence, **threats**, secret detention and cruel, inhuman or degrading punishment, and made confessions extracted by torture or other **unauthorized** methods inadmissible as evidence. Finally, the Constitution provided for the adoption of legislation for the **suppression** of torture and the compensation and rehabilitation of torture victims.

* The additional information transmitted by the Government of the Philippine⁶ to the Committee on the day of its **consideration** of the report will be circulated as a Committee document. at a later date.

147. The State representative stressed, however, the various threats hanging over her country. For example, the Government had to deal with a communist insurgency and the activities of separatist groups, and there had been a number of attempted **coups** led by military dissidents. At the same time, a large portion of the population lived in poverty while almost half the national budget went to servicing the foreign debt.

148. The members of the Committee welcomed the report, which contained **detailed** documentation providing a better insight into the political and legal situation prevailing in the Philippines. It was a pity, however, that the information **comprising** the second part of the initial report had reached them too late to be given proper consideration,

149. In general, members **wondered** whether the relevant provisions of the Convention could be invoked directly in the courts and applied directly by the competent **authorities**. They also asked what criteria were applied in appointing justices to the Supreme Court, whether they were **professional** judges, whether the President of the Republic had the power to **reject** nominations and whether the prohibition of torture and other similar acts applied equally to Philippine nationals and foreigners. Additional information was requested on the composition of the Commission on Human Rights, its activities and its relations with the Presidential Committee on Human Rights set up under the Constitution.

150. The members of the Committee also asked for further information on factors and difficulties affecting the implementation of the Convention, particularly the apparent time lag between the adoption and actual **implementation** of **constitutional** and legal provisions prohibiting torture. The Committee also asked about the effects of the insurrection on the practical application of the Convention's provisions, whether measures had been taken to prevent the practice of torture in areas under rebel control, whether any cases of torture had occurred and, if so, whether they had been investigated and, where appropriate, convictions had **been** handed down.

151. With regard to the provision of the Constitution commuting death sentences already imposed to **reclusion perpetua**, the Committee asked whether commutation was **automatic** or whether it depended on the institution of an appeal for **clemency** and, more generally, whether sentences of **reclusion perpetua** could actually be considered cruel or inhuman punishment.

152. With regard to article 2 of the Convention, members of the Committee asked whether a state of **emergency** was currently in effect in the Philippines and what was its general effect on legal **measures** for the protection of human rights, including those relating to torture.

153. With regard to article 4 of the Convention and to Executive Order No. 62, members asked whether ill-treatment of a detainee constituted a crime or an offence, whether it was subject to **criminal** or administrative law and what penalties were applicable in such cases.

154. Members of the Committee asked for further information on the implementation of articles 5 to 9 of the Convention and on the **principle** of universal jurisdiction over perpetrators of the crime of torture. In particular, they wondered whether persons presumed to have committed acts of torture could be prosecuted in the Philippines, in **cases** where the act in **question** had **not** been carried out in the Philippines and when **neither** the victim nor the culprit were **Philippine nationals**.

155, Referring to article 10 of the Convention, members **of** the Committee asked about **any activities** undertaken to inform **and educate** members of the **police** or **military in matters of human rights**, particularly with regard to torture.

156, The Committee asked whether measures had been taken to monitor the implementation of article 11 of the Convention, such as regular inspections of places of detention,

157, Finally, with regard to articles **12 to 14 of the Convention**, members **asked whether, despite** the problems created **by** the insurgency, an infrastructure **for** the rehabilitation of torture **victims** had been set up. With regard to the **work** of the **Commission** on Human Rights set up in the Philippines, the Committee asked about the procedure whereby torture victims could submit complaints to the **Commission**, whether the **Commission** had had to **deal with many such cases** and, if so, with what results, whether investigations had been opened and whether they had produced any convictions. Further details were also requested on the activities of the Presidential **Committee on Human Rights** in that **regard**.

158. In reply to questions raised by members **of** the Committee **concerning** the status **of** the Convention in Philippine law, the **representative** of the State party explained that under article 2.2 of the **Constitution**, international law was part of the law of the **land**. **However, no case** had **been** filed to test the rule in relation to the Convention because the Convention was **very** recent. She added there was no case law on the question of the conflict **between** the Constitution and the International Covenant on Civil and Political Rights. Lastly, she emphasised that article 8, **section 4**, paragraph 2, of the Constitution provided that all cases involving the constitutionality of a treaty, international or **executive** agreement or law should be heard by the Supreme Court **en banc**.

159. In reply to other questions concerning the organisation of the judiciary, the representative stated that the power **of** the judiciary was vested in a Supreme Court, which was a collegiate body consisting of one Chief **Justice** and 14 associate justices. She also said that certain reforms had **been** introduced to guarantee the independence of the judiciary, and that justices were appointed by the Judicial Bar Council. Moreover, the **power of** the Head of State to appoint **judges** was very limited, in that he had to select **one** individual from a list of not less than three candidates submitted to him by the Council. **Candidates** for **seats** on the Supreme Court could come from the **academic** community, **or** be **practising** lawyer⁶ or members of a judicial body, provided that they were members of the Bar. Lastly, the representative **drew** attention to new systems under experimentation in order to expedite the **administration of** justice and **therefore** to **ensure** more effective protection **of** human rights. Replying to **another** question, **she emphasized** that the protection against torture **extended** to Filipino citizens under the Constitution was also **extended** to **foreigners**.

160. Referring to **various** questions concerning the Philippine Commission on Human Rights and the Presidential Committee on Human Rights, the **representative explained** that the **First** Presidential **Committee** on Human Rights had **been** established almost immediately **after** President Aquino had come to power in February 1986, with a specific mandate of investigating and taking jurisdiction over cases filed against military and law-enforcement agencies. It had later been transformed into the Philippine Commission on Human Rights, which was to be independent under the new Constitution, and **which** had the power to investigate, to adopt its own rules, to cite **for** contempt and to provide **for** legal measures for the protection **of** human

rights. Moreover, it could **exercise visitorial** powers over prisons or detention facilities, and **establish** a continuing programme of research, **education** and information to enhance respect for the primacy of human rights. It had also recommended to Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights or their families, and it could monitor the Government's **compliance** with international treaty obligations in respect of human rights. The commission was composed of five commissioners appointed by the President for a fixed **term of office**. The representative also drew the Committee's attention to a bill pending in Congress for the strengthening of the **independence** of the Commission. Lastly, She pointed out that a new Presidential Committee on Human Rights had been established in December 1988 in **response** to a request from a non-governmental organisation which wanted to trace its members who had disappeared under **martial law**.

161. Regarding **factors and difficulties** encountered in the implementation of the Convention, the representative of the reporting State underscored that, although the Government had succeeded in establishing certain general principles and guidelines **against** torture and other inhuman treatment or punishment, much **still** remained to be done to ensure that those principles were translated into practice. The Commission on Human Rights, together with government agencies concerned, were doing all they could to ensure effective monitoring and **investigations** of any incidents of torture in prisons or detention **centres**. Nevertheless, the representative drew attention to the fact that, in places where civil strife existed, **investigation** of torture allegations was difficult, especially as the Philippines **consisted** of an **archipelago** of over 7,000 islands. Furthermore, she recalled that acts of torture were often committed by the insurgents themselves. She **also** explained that, in accordance with article 18 of the Constitution, all paramilitary groups were now disbanded. **However, there** still existed civilian volunteer organizations, unarmed vigilante groups that had **organized themselves** to protect their **own** families and property **against** lawless elements and that had to be registered in accordance with guidelines laid down by the Commission, which included respect for human rights. Lastly, She **emphasized** the growing perception in her country that torture had a **dehumanizing** effect not only on the victim but also on the perpetrator, and stated that a study of the phenomenon of torture, not only with a view to **rehabilitating** those affected but also as a means of achieving national reconciliation, was being prepared. In addition, a number of **bills** were currently before Congress to **ensure** protection of human rights, notably by safeguarding the independence of the Commission on Human Rights, by ensuring proper facilities for detainees and by **penalizing** public officials who denied arrested persons or detainees **their** rights under the Constitution.

162. Replying to questions raised in connection with the death penalty, the representative said that, in 1987, death sentences imposed on 428 persons had been commuted. Under the revised Penal Code, the death penalty had been automatically abolished, although Congress was empowered to restore it for what it considered to be "**heinous crimes**". In addition, She explained that **reclusion perpetua**, which was **considered** to be appropriate in the case of **major crimes**, was not a life sentence, but a sentence with a maximum term of 30 years.

163. With reference to article 2 of the Convention, she explained that there was no **declared** formal state of emergency, but that there was an insurgency which could be **described** as civil strife. However, in conformity with article 4 of the International Covenant on Civil and Political Rights, the Constitution and existing law did not allow for any exceptional circumstances that might be **invoked** as a

justification for torture. **Moreover**, a state of martial law did not suspend the operation of the Constitution, and in the ca68 **of** the suspension of the writ of **habeas corpus**, the person arrested or detained had to be judicially charged within three days. The privilege **of** the writ of **habeas corpus** could be suspended by the **President** under martial law Only in a case of invasion **or** rebellion, when public safety 60 required. Furthermore, the suspension only applied to persons judicially charged with rebellion or offences inherent or directly **connected** with invasion, Congress was empowered to revoke and the Supreme Court could review **the** sufficiency of the factual basis of the proclamation of martial law or the suspension of **habeas corpus**.

164. In reply to questions asked by member6 **concerning** article 4 of the Convention, the representative **stated** that maltreatment **was** defined under the Penal Code **as** the imposition of punishment not authorized by **the** regulations and inflicted in a cruel or humiliating manner. Executive Order No. 62 had increased the **original** penalty for such **an** offence to a maximum imprisonment **term** of eight years. Furthermore, a further penalty was temporary absolute disqualification, whereby the official concerned could be deprived **for** a certain period of his post, his right to vote and hi6 pension rights.

165. Commenting on questions **raised** under article6 5 to 9 of the Convention, the representative explained that as a general rule torture **was** not treated as a crime against humanity **and** that Philippine **jurisdiction** was extended **outside** Philippine territory only for specific offence6 such as economic **sabotage** and crimes against national security and the **law** of nation?, except as provided **in** treaties and laws of preferential application. Furthermore, extradition **was** granted only pursuant to an extradition treaty and at present Only two such treaties **existed**. Nevertheless, she highlighted a further extradition treaty with Australia - awaiting **ratification** by the Senate, whereby **extradition** might be refused **on** the grounds that the offence for which extradition was requested was one that constituted **an** infringement, of article 7 of the International Covenant on Civil and Political Rights.

166. Regarding questions raised under article 10 of the Convention, the representative of the reporting State emphasized that the study **of** human rights had **been** made part of the training of all police and military personnel and had been included by the Civil Service Commission in its **in-eervics** training courses. Similarly, specific mention **was** made of training in human right6 for **personnel** responsible for investigations and arrests. Furthermore, the findings of the Commission on Human Rights cases were being disseminated to the public and, in co-operation with the United Nations Centre for Human Rights, the Philippines **was** hosting a regional training seminar for the Asia-Pacific region under the Centre's advisory service6 programme.

167. Lastly, with reference to articles 12 to 14 of the Convention, the representative explained that in investigating torture allegations, **the** Commission on Human Right6 of the Philippines had first to determine whether a **prima facie case** existed. She underlined that obtaining evidence **was** very difficult, since **witnesses** of the offence were reluctant to come forward. After the case had been submitted to the Prosecutor, the Commission's **task** was to monitor its progress in order to ensure that it was disposed of expeditiously and in accordance with the law. The representative also provided a **number** of figure6 relating to complaints of human rights violations. Particularly, she stated that a total **of** 12 cases involving torture had been filed by the Commission and that successful **results** hnd been achieved in three cases filed against military personnel, in which sentences

ranging from temporary suspension to discharge from the service had been imposed. Similarly, cases had also **been** successfully brought ~~against~~ five police officers who had been sentenced to ~~demotion~~ and forfeiture of **pay**. Responding to other questions, she explained that several bills providing for the rehabilitation of victims and for the compensation **of** their families were currently **before Congress**. **As** regards protection of children **against** torture, she stated that ~~their~~ protection was ensured under the Family Code, the Labour Code **and** the Child and Youth Welfare Code. Nevertheless, she recalled that children ~~were~~ particularly affected by the unrest and **economic** difficulties which currently existed in the Philippines.

168. The representative of the State party concluded by describing the **general** background to the campaign against torture in the Philippines. She again stressed the importance of prevention, training and information and of public support for the policy of protection of human rights. Finally, she said that the Optional Protocol to the International Covenant on Civil and Political Rights was expected to be ratified shortly.

169. The members of the Committee thanked the representative of the State party for her frank and clear replies and welcomed the considerable progress achieved in the restoration **of** democracy in ~~the~~ Philippines. They nevertheless expressed the hope that the envisaged **legal** measures prohibiting torture would be implemented as rapidly as possible and called on the Government to place greater emphasis on training, education and information, as well as ~~on~~ the monitoring process. It was noted that the existence of internal unrest could not justify the use of torture, even if opponents of ~~the~~ Government themselves committed human rights violations.

Mexico

170. The Committee considered the **initial** report of Mexico (CAT/C/5/Add.7) at its 16th and 17th meetings, held on 21 April 1989 (CAT/C/SR.16-17).

171. The representative of the State party introduced the report and said that, in conformity with the Constitution, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment formed an integral part of domestic **law**. He also informed the Committee about the measures taken by the Mexican **authorities** to reaffirm the right of every individual to be protected against torture. He **explained** that, on the initiative of the Human Rights Commission **of** the Senate of the Republic of Mexico, ~~in~~ 1986 the **Congress** of the Union had adopted the Federal Act to Prevent and Sanction Torture. Moreover, the Government of Mexico had ratified the Inter-American Convention to Prevent and Punish Torture in **June** 1987; it had promulgated the Federal Act governing the Duties of Public Servants and had amended and extended criminal and civil legislation to ensure that Mexico at the present time possessed comprehensive legislation which protects citizens effectively against any abuse that might be committed **by** public servants. He went on to say that a review of all the country's legal instruments was under way with a view to strengthening their effectiveness.

2. He stressed that the legislative reforms had been accompanied by specific programmes, namely, the programme on the administration of **justice**, the national public security programme, the programme for the reform **of** the prison system and so on.

173. The representative also informed the Committee that special machinery had been established to deal with requests for information and to follow them up. At the national level, the authorities had entered into a continuing dialogue with the agencies that are concerned with the defence of human rights, with the result that a number of cases had already been resolved,

174. He stressed that, despite the country's economic difficulties and severe budgetary restrictions, the Government of Mexico had continued to endeavour to make law-enforcement personnel responsive to issues relating to respect for human rights and fundamental freedoms and, in particular, had recently organised courses for officials of the police department and judicial services. In a more general context, various higher education institutions organised seminars and conferences for the public at large; the Mexican Academy on Human Rights had been established in March 1984 to promote the dissemination of information and the study and teaching of human rights.

175. The representative described the Federal Act of 1986, which set forth, *inter alia*, the factors that constitute an offence, defined on the basis of the principles of Mexican legal and political tradition and aligned with the principles established in international instruments. He pointed out that, prior to the promulgation of the Act, the practice of torture had already been prohibited by various legal provisions without, however, being precisely defined and expressly given the status of an offence.

176. The members of the Committee congratulated the Government of Mexico on its first-rate report, which had been drafted in accordance with the general guidelines established by the Committee. They noted with satisfaction that a special Federal Act had been adopted on 29 May 1986 for the application of the Convention in Mexican legislation. They noted, however, an omission in the report of Mexico in that it did not refer to any instances of prosecutions or convictions for the offence of torture. The members of the Committee also inquired whether Mexico had encountered difficulties in implementing the Convention, particularly in respect of the protection of citizens against torture or other similar treatment.

177. With reference to the federal structure of the Mexican State, the members of the Committee expressed a desire for more information on the constitutional organization of Mexico and the division of competence between the Federation and the States. Noting that the provisions of the Convention directly affected the national authorities, they asked whether the same applied to the local authorities. The members of the Committee also asked whether the Government of Mexico contemplated making the declarations provided for in articles 21 and 22 of the Convention.

178. Turning to article 4 of the Convention, the members of the Committee wished to know what was meant by the penalty of "200 to 500 days of fine" mentioned in the report, the penalty incurred for an act of torture and the penalty incurred in case of co concurrence of offences, and why the penalty incurred by "persons attempting to commit an offence" would be only "two thirds of the penalty which would have been imposed on them if they had completed the offence".

179. With regard to article 1 of the 1986 Federal Act, the question was raised on the meaning of the term "legitimate sanctions" contained therein: explanations were also requested of the meaning of the term "directly or immediately" used in the text of article 12 of the Penal Code,

180, Concerning the implementation of article 5 of the **Convention**, it was noted that the report did not contain any information on the treatment of the offence specified in article 5, paragraph 2, of the **Convention**, whose provisions could be described as universal or virtually universal. Details were consequently requested on this point. With regard to the jurisdiction of the **Mexican** State over acts constituting the offence of torture committed in a territory under Mexican jurisdiction, it was asked what steps the Mexican Government had taken in respect of the **Guatemalan** refugees in the south-eastern part of the country and, more generally, what was the legal status of refugees in Mexico. Further, the members wished to know to what extent Mexico was able to take advantage of its accession to the **Convention** in order to demand respect for the rights of certain groups of Mexican workers who had emigrated to **Canada** or the United States of America and who were subjected to ill-treatment or victimisation outside the national territory. Clarifications were requested concerning the structure of the Public Prosecutor's Department and the role of the Attorney-General,

181, In respect of article 6 of the **Convention**, clarifications were requested concerning the authority who would have applied its provisions at the national level.

182, With regard to the implementation of article 7 of the **Convention**, it was noted that acts of torture were regarded as constituting a grave offence in Mexican legislation and, regard being had to this gravity, it was asked whether the offence was imprescriptible or, if not, what was the period of prescription.

183, With regard to the implementation of article 8 of the **Convention**, the members of the Committee wished to know whether the Government of Mexico accepted the principle of a universal jurisdiction in respect of torturers,

184. Turning to article 10 of the **Convention**, members of the Committee commented that the report made no reference to systematic training for members of the police department and the army and for law enforcement officials. In the same context, it was noted that the report said nothing about the training of medical personnel, which was an important consideration. Consequently, additional information was requested on these aspects of the implementation of article 10 of the **Convention**.

165. With reference to the Community Collaboration Programme referred to in the report, it was asked whether the non-governmental organisations were involved in the Programme and, in particular, whether they were active in the fields of education, training and rehabilitation. Details were also requested concerning the methods and practices of interrogation employed by the Attorney-General when visiting places of detention.

186. Concerning the implementation of article 11 of the **Convention**, members of the Committee asked for statistical data on the number of persons detained in prisons or other penal establishments, as well as for additional information on the rights and guarantees of prisoners. It was also asked at what age an individual was regarded as criminally responsible and able to be charged with the offence of torture.

187. Referring to the concept of the "obligation to report", contained in article 116 of the Federal Code of Penal Procedure, clarifications were requested about the liability of persons having knowledge of an offence, particularly parents or close relations of the person who had committed it.

188. Turning to the implementation of article 13 of the Convention, the members of the Committee inquired whether the remand in custody that was provided for in article 18 of the Constitution of Mexico was limited in time and whether the penalty, prescribed by the Penal Code, of a *Pine* from 30 to 300 times the minimum daily wage for the perpetrator of the offence of abuse of authority was consonant with the provisions of article 22 of the Mexican Constitution that prohibited, *inter alia*, "excessive fines".

189. With regard to the compensation to which a victim of torture was entitled, it was stated that the report dealt only with the financial aspect of compensation, and stress was laid on the *growing* importance of assuring medical and psychological rehabilitation. Information was requested on this aspect of compensation. In the same context, it was asked how many cases of compensation had been ordered by a court against the State.

190. In respect of the implementation of article 16 of the Convention, it was asked which authority was responsible for prisons, whether the Mexican Government considered the cramming of prisoners in prison cells to be a cruel and inhuman treatment and what was the meaning of the term "penas corporales" that appeared in the report.

191. The representative of the State party, in reply to the questions raised by the members of the Committee, explained that the Convention was applicable in all 31 states of Mexico as well as in the Federal District. With regard to articles 21 and 22 of the Convention, he said that they were still under study by the federal authorities.

192. Turning to the questions raised in connection with article 4 of the Convention, the representative said that the expression "penas corporales" meant simply detention, not bodily injury; that the 200 to 500 days of fine, mentioned in article 2 of the Federal Act to Prevent and Sanction Torture, referred to a sliding scale, the fines progressing from 200 to 500 times the minimum daily wage in the Federal District, and that people who were much better off were subject to heavier fines: the general rule was that the amount of fine depended on the income of the person concerned. He further stated that the idea of imposing up to two thirds the penalty on a person attempting to commit an offence left the judge free to define in each case the point at which an attempt was punishable under Mexican law. Turning to the question concerning the concurrence of offences, he stated that, in such a case, the heaviest penalty was invariably imposed.

193. In response to the questions raised under article 5 of the Convention, the representative said that, at present, a draft treaty with the United States of America on the right of migrant workers was well advanced, but, in the last instance the fate of migrant workers would naturally depend on the legislation of the country that received them. As for refugees from Guatemala, they received treatment equivalent to that given to Mexicans living in neighbouring States.

194. In connection with article 6 of the Convention, the representative informed the Committee that investigations were carried out by the Public Prosecutor's Department, which was subordinated to the Federal Executive. The Attorney-General acted through his own offices: there were 32 branch offices, one in each of the 31 states and one in the Federal District.

195. Taking up questions raised under article 7 of the Convention, he explained that the penalty for a person guilty of **acts** of torture, under article 105 of the Penal Code, was between 3 to 10 years of imprisonment.

196. Referring to questions raised in relation with article 8 of the Convention, the representative **indicated** that **one** of the basic **tenets** in Mexican **extradition treaties** was that a person was not returned to a country if it was felt there **was** a possibility that **the procedures followed might result in harm to that person**.

197. In reply to questions under article 10 of the Convention, he stated that the **Mexican** authorities had included the detection of cases of torture in training and **research** programmes for the police and the medical corps. He then provided explanations as to the **attitude** of the Government of Mexico to the participation of non-governmental organisations in the Community Collaboration Programme,

198. **The** legal guarantees of prisoners in Mexico, he said, were set out under article 20 of the Mexican Constitution, the text of which had been made available to the members of the **Committee**. The age at which a person in Mexico was criminally responsible was **18**.

199. As for the facilities available in Mexico for the medical **rehabilitation** of torture victims, he explained that such treatment would fall within the purview of the competent social services and **public** hospitals caring for all categories of victims. The representative pointed out that the question of **rehabilitation** had been included in the social programmes of the Government, covering assistance to all kinds of **victims** of physical and psychological injury.

200. **Finally**, the **representative** of the reporting State stated that it was quite difficult to **answer** very specific questions raised by the members of the Committee on the application by Mexico of the **C vention**, as well as to provide the requested statistical data. All these questions would be dealt with, he said, in the second periodic report of his Government.

201. In concluding the consideration of the report, members of the Committee stated that it could serve as a model to other reporting States. However, **they** suggested **that** the Mexican authorities should provide written replies to those **questions** which had not been answered during the discussion, so that the Committee could have a clear and complete picture of the situation with regard to the implementation of the Convention in Mexico.

Austria

202. The Committee considered the initial report of Austria (CAT/C/5/Add.10) at its 18th and 19th meetings, held on 24 April 1989 (CAT/C/SR.18-19).

203. The representative of the State party introduced the report and said that, in Austria, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been incorporated into domestic law. He further informed the Committee that Austria had ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, formulated within the Council of Europe. That Convention would enter into force for Austria as from 1 May 1989.

204. The **representative** of the **State** party drew the Committee's attention to the amendments to the **Austrian** Code of Administrative and Criminal Procedure, which had entered into **force on 1 July 1988**, and referred to the rights of detainees enunciated **therein**, and to the constitutional bill on the protection of personal freedom, which has been **submitted** to Parliament in autumn 1988. He added that the verification system established under the European **Convention against** Torture would provide a **further** guarantee in **addition** to **national** mechanisms for the protection of **human rights**.

205. The members of the **Committee** congratulated the Government of Austria on its report, which they felt was clear and precise. They nevertheless found that the report lacked specific information and details on the practical implementation of the provisions of the Convention and on the specific measures adopted to **ensure** compliance with the obligations **entered** into by Austria under the Convention. Nor had any mention been **made** in the report of difficulties encountered in executing the provisions of the Convention. The members of the Committee also stated that they would like to receive the legislative texts to which reference had been **made** in the report, and relevant statistics, in **particular** those concerning the number of torture victims recorded in Austria in recent years and the number of perpetrators who had been **prosecuted** or subjected to disciplinary measures.

206. It was noted that Austria had made the European Convention on Human Rights a constitutional law, which rendered it directly applicable. It was asked if that would **also** be the case with the United Nations Convention against Torture.

207. In the **same context**, further information was **requested** in order to explain how, in general, international treaties were incorporated within **domestic** law and what mechanism **enabled** their provisions to be invoked before the competent authorities and courts.

208. Additional information was requested concerning the statement in the report that torture had been abolished in Austria more than 200 years before.

209. Having noted from **the** report that articles 5 and 15 of the Convention were the subject of national enforcement **measures**, members of the Committee asked what were the reasons for the reservations expressed by **Austria** with regard to those articles.

210. In addition, clarification was requested concerning the composition and powers of the Constitutional Court, and about the various recourse procedures in the courts mentioned in the report. It was also asked whether a **habeas corpus** procedure existed in Austria.

211. Some members of the Committee requested clarification of the **statement**: "the expulsion and **refoulement** of persons are within the competence of the police authorities". They asked, in particular, whether decisions by the police on the subject could be **challenged**.

212. Referring to article 4 of the Convention, members of the Committee asked whether the penalties deriving from article 312 of the Penal Code had proved appropriate in practice and what were the penalties established **for** ordinary and premeditated homicide and for rape. It was also asked whether the penalty for a public official guilty of ill-treatment **or** neglect of another person was suspension from duty **or** permanent dismissal from public service. In the same context, clarification was requested concerning the nature and share of responsibility of a

public official who had inflicted suffering on a detainee or witness. It was asked in what way an attempt to commit such **an** act would be punishable and whether it was necessary **that** an offence should actually be committed for a punishment to be imposed.

213, In connection with the implementation of article 5 of the Convention, it was asked whether a refugee who had committed an act of torture abroad could be prosecuted in Austria.

214, Turning to article 10 of the Convention, members of the Committee wished to know whether the training of the personnel referred to in that article also related to the after-effects of physical or psychological torture, whether at the university level the **training** mentioned was provided within the framework of the teaching of forensic medicine, psychology or psychiatry or in any other way, whether non-governmental **organizations** participated in the activities of the Austrian authorities in the area of training, rehabilitation and information relating to torture, and whether training for the medical corps comprised **specialized** tuition in the care of torture victims.

215, Referring to article 11 of the Convention, members of the **Committee** asked who had powers of **arrest**, how investigations were conducted and what was the maximum duration of pre-trial detention, what were the powers of the prison commissions mentioned in paragraph CO of the report, and what happened when they found anomalies, what authority could receive grievances from detainees in the interval between visits by prison commissions and whether there was a special service responsible for supervising the overall implementation of the Prison **System** Act.

216. In connection with the information provided on implementation of article 13 of the Convention, it was asked whether, if the Public Prosecutor refused for reasons of public order or other **reasons** to prosecute a person charged with acts of torture, the victim had a **further** recourse mechanism available to him.

217. As regards the implementation by Austria of the provisions of article 14 of the Convention, the members of the Committee wished to know whether responsibility of the State in the **matter** of redress and compensation for the **victim** of an act of torture applied in the same way to refugees who had been granted asylum as to Austrian nationals. In that connection, it was observed that that responsibility **must** not only be financial, it must also apply to the treatment of any serious or long-lasting physical or psychological after-effects. It was asked whether **victims** could apply to a **court** in order to seek compensation and what judicial practice was in that area, whether in the case of a suit for damages the civil proceedings were connected with the criminal proceedings or whether the two proceedings must be conducted separately, and whether there were in Austria positive law provisions for the compensation of persons who had been held in pre-trial detention before being acquitted or whose proceedings had been dismissed when they had suffered **serious** damage. As regards assistance to victims, it was also asked whether foreigners were treated in the same way as Austrian nationals, given the fact that the Convention provided that, in general, foreigners and citizens should enjoy the same guarantees.

216. Noting that, in accordance with article 15 of the Convention, in Austria confessions obtained through torture could not be used **as** evidence, it was asked whether, for their part, the victims could provide testimony with evidential value against torturers.

219, Replying to the questions, asked and observations made by members of the Committee, the representative of the State party said that, in affirming that torture had been abolished in Austria in the eighteenth century, the authors of the report had meant that torture had formerly been a common means of obtaining evidence and that the sovereign rulers of that time had abolished the practice as a means of obtaining evidence.

220. He then gave additional information on the legal status of the European Convention on Human Rights in Austrian domestic law, emphasising that, following ratification of that Convention, the Austrian Government had noted certain incompatibilities with the Constitution. That had prompted it to make the Convention a constitutional act, which had accordingly become applicable on the same basis as any other constitutional act. He also gave information on the structure, composition, powers and competence of the Constitutional Court and the administrative tribunals. In the same context, he gave additional information on a particular institution equivalent to that of mediator,

221. The representative of the State party referred to the role of non-governmental organisations in the implementation of the Convention in Austria in close co-operation with international non-governmental organizations. The Ministry of Foreign Affairs co-ordinated all activities in that area.

222. He further provided detailed information on article 312 of the Austrian Penal Code and its relation to other provisions covering such offences as murder, assault, or physical injury. Penalties for complicity were provided for under article 12 of the Penal Code, complicity being understood not only as the instigation of another person to commit an offence, but also as any other kind of participation in that offence. Any form of complicity in an offence carried the same penalty as the offence itself.

223. With regard to the question of jurisdiction, the representative stated that Austria's statement of interpretation upon ratification of the Convention, which was not a reservation, had made it clear that it would establish jurisdiction in cases covered by article 5, paragraph 1 (c), of the Convention only when it was not to be expected that either the State where the offence was committed, or the offender's own State, would be instituting criminal proceedings. Article 64 of the Penal Code extended Austria's jurisdiction to cover all cases in which there was an obligation to prosecute under an international treaty. In the case of an alleged offender being present on Austrian territory, the authorities would first review the case to establish whether there were grounds for extradition; if not, there would be an obligation to prosecute under article 5, paragraph 2, of the Convention.

224. Turning to the questions regarding the prison commissions, the representative said that there were 15 of these commissions, one for each of the 15 courts of first instance in Austria. They consisted of seven members, appointed by the Minister of Justice. Their role was to monitor compliance with all the rules of prison administrations, notably the rules for treatment of detainees. Compliance with prison regulations governing detention was also monitored on a regular basis by inspectors of the Ministry of Justice, who also dealt with complaints from prisoners. In the last instance, there was also a procedure for complaints from prisoners to be brought before the High Court. Finally, the Austrian Prisons Advisory Commission was empowered to make visits and inspections, without prior notice, to any place where persons were in detention, and to make proposals to the Ministry of Justice for any changes that might be found necessary. In connection

with other questions concerning article 12 of the Convention, the **representative** provided information **about** the procedure for **bringing** complaints to a higher court.

225. On the question of compensation, the Committee **was** informed **that** the State **was** obliged **under** the Austrian Constitution **to compensate** any person who had **suffered** damage because of culpable behaviour on the part **of** public officials. It **was for** the injured party to apply for compensation, which would be payable **not only for** material damage but also for non-material damage. Where compensation in terms of rehabilitation **was concerned**, resort to the law was not the only means of obtaining redress, **although** Austrian legislation expressly provided that **victims** of torture or ill-treatment **should** be compensated. **Rehabilitation** treatment **was** also obtainable under Austria's normal **system** of public health care **and** in accordance with the *Federal Act of Assistance to Victims of Crime*.

226. Concerning the question of inadmissibility of evidence under article 15 of the Convention, the representative of the **State** party stressed **that** the statement of interpretation was not a **reservation**; Austria assumed in full its obligations under this article. The statement had been merely intended to **clarify** that **evidence** obtained **under** torture had been inadmissible **per se**, thus establishing a legal principle that had been directly applicable by the criminal courts.

227. **As** for provisional detention or remaining in custody, he described the existing procedures, and **indicated** that provision had been **made** under **a recent Act for a new procedure similar** to that of **habeas corpus**, which would give any detainee, making a complaint, the right to request a judicial decision. Such a decision would have to be taken within one week of the complaint being made.

228. With regard to the training of police personnel, he provided detailed information on the comprehensive system **of** training which had been introduced in Austria since 1970.

229. The representative finally stated that several questions and observations by the members of the Committee that had been left unanswered would be dealt with in the second periodic **report** of his Government.

230. In concluding the consideration of the report, members of the Committee expressed their satisfaction at the constructive dialogue that had been established between the Committee and the Austrian Government and expressed the wish to be provided with the texts of the relevant legislative acts referred to in its report, as well as statistics concerning **crime** and information regarding medical treatment that might be available to torture victims. The Committee also expressed the hope that the second periodic report of Austria would contain details of the training of medical personnel, as well as the results of the judicial inquiry regarding certain allegations of ill-treatment made in the Austrian **media**,

IV. ADOPTION OF **THE** RULES OF PROCEDURE OF THE **COMMITTEE** RELATING
TO ITS FUNCTIONS UNDER ARTICLE 20 OF **THE** CONVENTION

231. In accordance with article 18, paragraph 2, of the Convention, "the **Committee** shall establish its **own** rules of procedure , , .". The provisional rules of procedure adopted by the **Committee** at its first session were reproduced in document **CAT/C/3**. *Owing* to the complexity of the **matte:**, the **Committee** at its first session agreed to postpone to its second session **consideration** of the rules of procedure relating to its functions under article 20 of the Convention,

232. The **Committee** at its second session had **before** it draft rules of procedure relating to the functions of the **Committee** under article 20 of the Convention (**CAT/C/L.1/Add.2**), prepared by the Secretary-General with a view to facilitating its task. It considered the draft rules of procedure at its 9th and 20th meetings, held on 17 and 25 April 1989. After a general discussion, the **Committee** considered and adopted a revised text of the draft rules submitted by the Secretary-General (**CAT/C/L.1/Add.2/Rev.1**). A detailed account of the **discussion** of these rules is contained in the summary records of the **Committee** (see **CAT/C/SR.9** and 20).

233. The text of the rules, as adopted, is reproduced in annex IV to the present report. The text of all the rules of procedure of the **Committee** will be issued in document **CAT/C/3/Rev.1**.

V. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 22
OF THE CONVENTION

234. Under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee against Torture for consideration. Seventeen of the 41 States that have acceded to or ratified the Convention have declared that they recognise the competence of the Committee to receive and consider communications under article 22 of the Convention. These States are **Argentina, Austria**, Denmark, Ecuador, France, Greece, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Togo, Tunisia, Turkey and Uruguay. No communication may be received by the Committee if it concerns a State party to the Convention that has not recognised the competence of the **Committee to do so**.

235. Consideration of communications under article 22 of the Convention takes place in closed meetings (art. 22, **para. 6**). All documents pertaining to the work of the Committee under article 22 (submissions from the parties and other working documents of the Committee) are confidential.

236. In carrying out its work under article 22 of the Convention, the Committee may be assisted by a working group of not more than five of its members, which submits recommendations to the **Committee** regarding the fulfilment of the condition⁶ of admissibility of communications or assists it in any manner which the Committee may decide (rule 11/22 of the provisional rules of procedure of the **Committee**).

237. A communication may not be declared admissible unless the State party has received the text of the communication and has been given an opportunity to furnish information or observations concerning the question of admissibility, including information relating to the exhaustion of domestic remedies (rule 13/22, **para. 3**). Within six months after a decision of the Committee declaring a communication admissible has been communicated to the State party concerned, the State party shall submit to the Committee written explanations or statements clarifying the case under consideration and the remedy, if any, which may have been taken by it (rule 15/22, **para. 2**).

238. The Committee concludes its consideration of a communication that has been declared admissible by formulating its views thereon in the light of all information made available to it by the petitioner and the State party. The views of the **Committee** are communicated to the parties (art. 22, **para. 7**, of the Convention and rule 16/22, **para. 3**).

239. The **Committee's** work under article 22 of the Convention commenced at its second session. At that session, the Committee had before it the first three communications submitted to it under article 22. It took action on these communications in conformity with rule 13/22, paragraph 3, of its provisional rules of procedure, which provides that no communication can be declared admissible unless the State party concerned has been given an opportunity to furnish information or observations relevant to the **question** of admissibility of the communication.

240. At the outset of its work under article 22, the Committee agreed that any member who withdraws from the examination of a communication under rule 9/22 on the

grounds set out in rule 8/22, paragraph 1, (i.e. (a) if he has any personal interest in the **case**, or (b) if he has participated in any capacity in the making of any decision on the case covered by the **communication**) should not be present during the **Committee's** consideration of the communication, The Committee also decided to set up a working group of three of its **mmbers** (rule 11/22) to **meet** during its third session to assist the Committee in the handling of communications under article 22 of the Convention,

241. It is envisaged that the Committee will include in its annual report a summary of the **communications** considered by it and of the explanations and statements of the States parties concerned, together with the Committee's *own views* (rule 17/22). That reporting stage has not yet been reached,

VI. FUTURE MEETINGS OF THE COMMITTEE

242. In accordance with rule 2 of its provisional rules of procedure, the **Committee** shall normally hold two regular sessions each year. Regular sessions of the Committee shall be convened at dates decided by the Committee, in consultation with the Secretary-General, taking into account the calendar of conferences as approved by the General Assembly.

243. As the calendar of meetings held within the **framework** of the United Nations is submitted by the Secretary-General on a biennial basis for the approval of the Committee on Conferences and the General Assembly, the Committee took decisions on the schedule of its **meetings** to be held in 1990 and 1991.

244. Accordingly, the Committee at its 21st meeting, on 25 **April** 1989, decided to hold its regular sessions for the next biennium at the United Nations Office at **Geneva** on the following dates:

Fourth session: from 23 April to 4 May 1990;

Fifth session: from 12 to 23 November 1990;

Sixth session: from 22 April to 3 May 1991;

Seventh session: from 11 to 22 November 1991.

VII. ADOPTION OF THE ANNUAL REPORT OF THE COMMITTEE
ON ITS ACTIVITIES

245, In accordance with article 24 of the Convention, the Committee shall submit an annual report on its activities to the States parties and to the General Assembly.

246, Since the Committee will hold its second regular session of each calendar year in late November, which coincides with the regular session of the General Assembly, the Committee decided to adopt its annual report at the end of its spring session for appropriate transmission to the General Assembly during the same calendar year.

247, Accordingly, at its 23rd and 24th meetings, held on 28 April 1989, the Committee considered the draft report on its activities at the second session (CAT/C/CRP.1 and Add.1-13, and CAT/C/CRP.2 and Add.1). The report, as amended in the course of the discussion, was adopted by the Committee unanimously. An account of the activities of the Committee at its third session (13 to 24 November 1989) will be included in the annual report of the Committee for 1990.

Notes

1/ Official Records of the Economic and Social Council, 1985, Supplement No. 2 (E/1985/22), chap. II A,

2/ Ibid., 1988, Supplement No. 2 (E/1988/12), chap. II A,

3/ Ibid., 1989, Supplement No. 2 (E/1989/20), chap. II A.

4/ United Nations, Treaty Series, vol. 189, No. 2545, p. 150.

ANNEX I

List of States that have signed, ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as at 28 April 1989

State	Date of signature	Date of receipt of the instrument of ratification or accession
Afghanistan	4 February 1985	1 April 1987
Algeria	26 November 1985	
Argentina a/	4 February 1985	24 September 1986
Australia	10 December 1985	
Austria a/	14 March 1985	29 July 1987
Belgium	4 February 1985	
Belize		17 March 1986 b/
Bolivia	4 February 1985	
Brazil	23 September 1985	
Bulgaria	10 June 1986	16 December 1986
Byelorussian Soviet Socialist Republic	19 December 1985	13 March 1987
Cameroon		19 December 1986 b/
Canada	23 August 1985	24 June 1987
Chile	23 September 1987	30 September 1988
China	12 December 1986	4 October 1988
Columbia	10 April 1985	8 December 1987
Costa Rica	4 February 1985	
Cuba	27 January 1986	
Cyprus	9 October 1985	
Czechoslovakia	8 September 1986	7 July 1988
Denmark a/	4 February 1985	27 May 1987
Dominican Republic	4 February 1985	
Ecuador a/	4 February 1985	30 March 1988
Egypt		25 June 1986 b/
Finland	4 February 1985	
France a/	4 February 1985	18 February 1986
Gabon	21 January 1986	
Gambia	23 October 1985	

State	Date of signature	<u>Date of receipt of the instrument of ratification or accession</u>
German Democratic Republic	7 April 1986	9 September 1987
Germany , Federal Republic of	13 October 1986	
Greece a/	4 February 1985	6 October 1988
Guinea	30 May 1986	
Quyana	25 January 1980	19 May 1908
Hungary	28 November 1986	15 April 1987
Iceland	4 February 1985	
Indonesia	23 Ortober 1985	
Israel	22 October 1986	
Italy	4 February 1985	12 January 1989
Liechtenstein	27 June 1985	
Luxembourg a/	22 February 1.985	29 September 1987
Mexico	18 March 1985	23 January 1986
Morocco	8 January 1986	
Netherlands a/	4 February 1985	21 December 1988
New Zealand	14 January 1986	
Nicaragua	15 April 1985	
Niger ia	28 July 1988	
Norway a/	4 February 1985	9 July 1986
Panama	22 February 1985	24 August 1987
Peru	29 May 1985	7 July 1988
Philippines		18 June 1986 b/
Poland	13 January 1986	
Portugal a/	4 February 1985	9 February 1989
Senegal	4 February 1985	21 August 1986
Sierra Leone	18 March 1985	
Spain a/	4 February 1985	21 October 1987
Sudan	4 June 1986	
Sweden a/	4 February 1985	8 January 1986
Switzerland a/	4 February 1985	2 December 1986
Togo a/	25 March 1987	18 November 1987
Tunisia a/	26 August. 1987	23 September 1988
Turkey a/	25 January 1988	2 August 1968

State	<u>Date of signature</u>	<u>Date of receipt of the instrument of ratification or accession</u>
Uganda		3 November 1906 b/
Ukrainian Soviet Socialist Republic	27 February 1986	24 February 1987
Union of Soviet Socialist Republics	10 December 1985	3 March 1987
United Kingdom of Great Britain and Northern Ireland c/	15 March 1985	8 December 1988
United States of America	18 April 1988	
Uruguay a/	4 February 1985	24 October 1986
Venezuela	15 February 1985	
Yugoslavia	18 April 1989	

a/ Made the declarations under **articles** 21 and 22 **of** the Convention.

b/ Accession.

c/ Made the declaration under article 21.

ANNEX II

Membership of the Committee against Torture, 1988-1989

<u>Name of member</u>	<u>Country of nationality</u>	<u>Term expires on 31 December</u>
Mr. Alfredo R. A. BENGZON	Philippines	1991
Mr. Peter Thomas BURNS	Canada	1991
Ms. Christine CHANET	France	1991
Ms. Sororro DIAZ PALACIOS	Mexico	1991
Mr. Alexis DIPANDA MOUELLE	Cameroon	1989
Mr. Ricardo GIL LAVEDRA	Argentina	1991
Mr. Yuri A. KHITRIN	Union of Soviet Socialist Republics	1989
Mr. Dimitar N. MIKHAILOV	Bulgaria	1989
Mr. Bent SØRENSEN	Denmark	1989
Mr. Joseph VOYAME	Switzerland	1989

ANNEX III

Status of submission of reports by States parties under article 19
of the Convention as at 28 April 1989

<u>State party</u>	<u>Date of entry into force</u>	<u>Initial report date due</u>	<u>Date of submission</u>	<u>Symbol</u>
Afghanistan	26 June 1987	25 June 1968		
Argentina	26 June 1987	25 June 1906	15 December 1988	CAT/C/S/Add. 12
Austria	28 August 1987	27 August 1968	10 November 1968	CAT/C/S/Add. 10
Belize	26 June 1987	25 June 1988		
Bulgaria	26 June 1987	25 June 1988		
Byelorussian Soviet Socialist Republic	26 June 1987	25 June 1968	11 January 1989	CAT/C/5/Add.14
<i>Cameroon</i>	26 June 1987	25 June 1988	15 February 1989	CAT/C/5/Add.16
Canada	24 July 1987	23 July 1988	16 January 1909	CAT/C/S/Add, 15
Chile	30 October 1986	29 October 1989		
China	3 November 1988	2 November 1989		
Colombia	7 January 1968	6 January 1909	24 April 1989	CAT/C/7/Add.1
Czechoslovakia	6 August 1988	5 August 1989		
Denmark	26 June 1987	25 June 1966	26 July 1968	CAT/C/S/Add.4
Ecuador	29 April 1986	28 <i>April</i> 1989		
Egypt	26 June 1987	25 June 1968	26 July 1988	CAT/C/S/Add.5
France	26 June 1987	25 June 1988	30 June 1988	CAT/C/5/Add.2
German Democratic Republic	9 October 1987	8 October 1988	19 December 1988	CAT/C/S/Add. 13
Greece	5 November 1988	4 November 1989		
Guyana	18 June 1988	17 June 1909		
Hungary	26 June 1987	25 June 1988	25 October 1988	CAT/C/S/Add, 9
Italy	11 February 1989	10 February 1990		
Luxembourg	29 October 1987	28 October 1986		
Mexico	26 June 1987	25 June 1988	10 August 1988	CAT/C/S/Add. 7
Netherlands	20 January 1989	19 January 1990		
Norway	26 June 1987	25 June 1988	21 July 1988	CAT/C/S/Add.3
Panama	23 September 1987	22 September 1988		

<u>State party</u>	<u>Date of entry into force</u>	<u>Initial report date due</u>	<u>Date of submission</u>	<u>Symbol</u>
Peru	6 August 1988	5 August 1989		
Philippines	26 June 1987	25 June 1988	26 July 1988	CAT/C/S/Add.6
Portugal	11 March 1989	10 March 1990		
Senegal	26 June 1987	25 June 1988	21 October 1988	CAT/C/5/Add.8
Spain	20 November 1987	19 November 1988		
Sweden	26 June 1987	25 June 1988	23 June 1988	CAT/C/S/Add. 1
Switzerland	26 June 1987	25 June 1988	14 April 1989	CAT/C/5/Add.17
Togo	18 December 1987	17 December 1988		
Tunisia	23 October 1988	22 October 1989		
Turkey	1 September 1988	31 August 1989		
Uganda	26 June 1987	25 June 1988		
Ukrainian Soviet Socialist Republic	26 June 1987	25 June 1988		
Union of Soviet Socialist Republics	26 June 1987	25 June 1988	6 December 1988	CAT/C/S/Add. 11
United Kingdom of Great Britain and Northern Ireland	7 January 1989	6 January 1990		
Uruguay	26 June 1987	25 June 1988		

ANNEX IV

Rules of procedure of the Committee against Torture

CONTENTS

PART TWO! RULES RELATING TO THE FUNCTIONS OF THE COMMITTEE*

XVII. PROCEEDINGS UNDER ARTICLE 20 OF THE CONVENTION

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* Part one: General rules, and part two: Rules relating to the functions of the Committee: chapters XVI, XVIII and XIX, adopted by the Committee at its first session were reproduced in document CAT/C/3 (see also Official Records of the General Assembly, Forty-third Session, Supplement No. 46 (A/43/46), annex III), The text of the rules of procedure will be issued separately in document CAT/C/3/Rev.1.

PART TWO, RULES RELATING TO THE FUNCTIONS
OF THE COMMITTEE (continued)

XVII. PROCEEDINGS UNDER ARTICLE 20 OF THE CONVENTION

Transmission of information to the Committee

Rule 69

1. The Secretary-General shall bring to the attention of the Committee, in **accordance** with the present rules, information which is, or appears to be, submitted for the Committee's consideration under article 20, paragraph 1, of the Convention,

2. No information shall be received by the Committee if it concerns a State party which, in **accordance** with article 28, paragraph 1, of the Convention, declared at the time of ratification of or accession to the Convention that it did **not recognise** the competence of the Committee provided for in article 20, unless that State has subsequently withdrawn its reservation in accordance with article 20, paragraph 2, of the Convention.

Register of information submitted

Rule 70

The Secretary-General shall maintain a **permanent** register of information brought to the attention of the Committee in accordance with rule 69 above and shall make the information available to any member of the Committee upon request.

Summary of the information

Rule 71

The Secretary-General, when necessary, shall prepare and circulate to the members of the Committee a brief summary of the information submitted **in** accordance with rule 69 above.

Confidentiality of documents and proceedings

Rule 72

All documents and proceedings of the Committee relating to its functions under article 20 of the Convention shall be confidential, until such time when the Committee decides, in accordance with the provisions of article 20, paragraph 5, of the Convention, to make them public,

Meetings

Rule 73

1. Meetings of the Committee concerning its proceedings under article 20 of the Convention shall be closed

2. Meetings during which ~~the~~ Committee considers general issues, such as procedures for the application of article 20 of the Convention, shall be public, unless the Committee decides otherwise.

Issue of communiqués concerning closed meetings

Rule 74

The Committee may decide to issue **communiqués**, through the **Secretary-General**, for the use of the information media and the general public regarding its activities under article 20 of the Convention.

Preliminary consideration of information by the Committee

Rule

1. The Committee, when necessary) may ascertain, through the Secretary-General, the reliability of the information and/or of the **sources** of the information brought to its attention under article 20 of the Convention or obtain additional **relevant** information substantiating the facts **of** the situation.

2. The Committee shall determine whether it appears to it that the information received contains well-founded indications that torture, as defined in article 1 of the Convention, is being systematically practised in the territory of the State party concerned.

Examination of the information

Rule 76

1. If it appears to the Committee that the information received is reliable and contains well-founded indications that torture is being systematically practised in the territory **of** a State party, the Committee shall invite the State party concerned, through the Secretary-General, to co-operate in its examination of the information and, to this end, to submit observations with regard to that information.

2. The Committee shall indicate a time-limit **for** the submission of observations by the State party concerned, with a view to avoiding undue delay in its proceedings.

3. In examining the information received, the Committee shall take into account any observations which **may** have been submitted by the State party concerned, as well as any other relevant information available to it,

4. The Committee **may** decide, if it deems it appropriate, to obtain from the representatives of the State party concerned, governmental and non-governmental organizations, as well as individuals, additional information or answers to questions relating to the information under examination.

5. The Committee shall decide, on its initiative and on the basis **of** its rules of procedure, the form and **manner** in which such **additional** information **may** be obtained.

Documentation from United Nations bodies and specialized agencies

Rule 77

The Committee may at any time obtain, through the Secretary-General, any relevant documentation from United Nations bodies or specialised agencies that may assist it in the examination of the information received under article 20 of the Convention,

Establishment of an inquiry

Rule 78

1. The Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to it within a time-limit which may be set by the Committee.
2. When the Committee decides to make an inquiry in accordance with paragraph 1 of this rule, it shall establish the modalities of the inquiry as it deems it appropriate.
3. The members designated by the Committee for the confidential inquiry shall determine their own methods of work in conformity with the provisions of the Convention and the rules of procedure of the Committee.

Co-operation of the State party concerned

Rule 79

The Committee shall invite the State party concerned, through the Secretary-General, to co-operate with it in the conduct of the inquiry. To this end, the Committee may request the State party concerned;

- (a) To designate an accredited representative to meet with the members designate% by the Committee;
- (b) To provide its designated members with any information that they, or the State party, may consider useful for ascertaining the facts relating to the inquiry;
- (c) To indicate any other form of co-operation that the State may wish to extend to the Committee and to its designate% members with a view to facilitating the conduct of the inquiry.

Visiting mission

Rule 80

If the Committee deems it necessary to include in its inquiry a visit of one or more of its members to the territory of the State party concerned, it shall request, through the Secretary-General, the agreement of that State party and shall inform the State party of its wishes regarding the timing of the mission and the facilities required to allow the designated members of the Committee to carry out their task .

Hearings in connection with the inquiry

Rule 81

1. The designated members may decide to conduct hearings in connection with the inquiry as they deem it appropriate.
2. The designated members shall establish, in co-operation with the State party concerned, the conditions and guarantees required for conducting such hearings. They shall request the State party to ensure that no obstacles are placed in the way of witnesses and other individuals wishing to meet with the designated members of the Committee and that no retaliatory measure is taken against those individuals or their families.
3. Every person appearing before the designated members for the purpose of giving testimony shall be requested to take an oath or make a solemn declaration concerning the veracity of his/her testimony and the respect for confidentiality of the proceedings.

Assistance during the inquiry

Rule 82

1. In addition to the staff and facilities to be provided by the Secretary-General in connection with the inquiry and/or the visiting mission to the territory of the State party concerned, the designated members may invite, through the Secretary-General, persons with special competence in the medical field or in the treatment of prisoners as well as interpreters to provide assistance at all stages of the inquiry.
2. If the persons providing assistance during the inquiry are not bound by an oath of office to the United Nations, they shall be required to declare solemnly that they will perform their duties honestly, faithfully and impartially, and that they will respect the confidentiality of the proceedings.
3. The persons referred to in paragraphs 1 and 2 of the present rule shall be entitled to the same facilities, privileges and immunities provided for in respect of the members of the Committee, under article 23 of the Convention.

Transmission of findings, comments or suggestions

Rule 83

1. After examining the findings of its designated members submitted to it in accordance with rule 78, paragraph 1, the Committee shall transmit, through the Secretary-General, these findings to the State party concerned, together with any comments or suggestions that it deems appropriate,
2. The State party concerned shall be invited to inform the Committee within a reasonable delay of the action it takes with regard to the Committee's findings and in response to the Committee's comments or suggestions.

Summary account of the results of the proceedings

Rule 84

1. After all the proceedings of the Committee regarding an inquiry made under article 20 of the Convention have been completed, the Committee may decide, after consultations with the State party concerned, to include a summary account of the results of the proceedings in its annual report made in accordance with article 24 of the Convention.
2. The Committee shall invite the State party concerned, through the Secretary-General, to inform the Committee directly or through its designated representative of its view concerning the question referred to in paragraph 1 of this rule, and may indicate a time-limit within which the view of the State party should be communicated to the Committee.

ANNEX V

List of documents issued for the Committee at its second session

<u>Symbol</u>	<u>Title</u>
CAT/C/3	Provisional rules of procedure of the Committee
CAT/C/4	Provisional general guidelines regarding the form and contents of initial reports to be submitted by States parties under article 19 of the Convention
CAT/C/S	Note by the Secretary-General listing initial reports that were due in 1988
CAT/C/5/Add.1	Initial report of Sweden
CAT/C/5/Add.2	Initial report of France
CAT/C/5/Add.3	Initial report of Norway
CAT/C/5/Add.4	Initial report of Denmark
CAT/C/5/Add.5	Initial report of Egypt
CAT/C/5/Add.6	Initial report of the Philippines
CAT/C/5/Add.7	Initial report of Mexico
CAT/C/5/Add.8	Initial report of Senegal
CAT/C/S/Add.9	Initial report of Hungary
CAT/C/5/Add.10	Initial report of Austria
CAT/C/B	Provisional agenda and annotations: note by the Secretary-general
CAT/C/I	Note by the Secretary-General listing initial reports that are due in 1989
CAT/C/L.1/Add.2 and Rev.1	Draft rules of procedure of the Committee relating to its functions under article 20 of the Convention
CAT/C/SR.8-24	Summary records of the second session of the Committee against Torture

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