



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

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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE 630th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 November 2004, at 10 a.m.

Chairperson: Mr. MARIÑO MENÉNDEZ

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Fourth periodic report of Greece (CAT/C/61/Add.1; CAT/C/33/L/GRE)

1. At the invitation of the Chairperson, Mr. Cambitsis, Mr. Kastanas, Mr. Kourakis, Mr. Lourantos, Ms. Papamitropoulou and Mr. Sarris took places at the Committee table.
2. Mr. KOURAKIS (Greece), introducing the fourth periodic report of Greece (CAT/C/61/Add.1), said that he looked forward to a constructive dialogue with the Committee. Honesty was the best policy, and an effort would be made to deal with all aspects of the problems facing the country with a view to resolving them in the future. Greece had benefited from such exercises in the past within the framework of the United Nations and the Council of Europe, as was borne out by the report of the Council of Europe Commissioner for Human Rights, Mr. Alavaro Gil-Robles, concerning his visit to Greece in 2002. That report referred, inter alia, to the problem of the Roma people and noted the authorities' awareness of the need to improve that group's situation.
3. Turning to the list of issues (CAT/C/33/L/GRE) received by the State party in June 2004, he said that under article 52 of the Prison Code detainees had the right to communicate with relatives up to the fourth degree of consanguinity. However, the prison authorities also allowed other persons to communicate with detainees, provided that they were not deemed to have a negative influence on them. Thus far, there had been no allegations of any restrictions on such rights. Similarly, detainees held in police custody were entitled under the relevant regulations to communicate with their relatives and diplomatic representatives by telephone or in person.
4. Mr. LOURANTOS (Greece) said that under Regulatory Order No. 6 of 2003, information relating to the type of offence, source of the detention order, expected length of detention and detainees' personal details was systematically recorded by the police when registering detainees.
5. Mr. KOURAKIS (Greece) said that following Greece's ratification of the Convention in 1988, the instrument became part of domestic legislation. Thus in the event of any difficulties of interpretation, the courts would uphold the provisions of article 2, whereby no exceptional circumstances, including superior orders, might be invoked as a justification of torture.
6. In 2003 there had been only one case of refoulement, involving an Indian citizen whose application for asylum had been rejected. In general, it was not Greece's practice to return immigrants to their countries of origin because of the risks that might entail.
7. To his knowledge, no allegations of torture or similar acts by prison staff had been substantiated. He pointed out that, owing to the separation of the judicial and executive powers, it was not possible for the Government to interfere in any way in the affairs of the judiciary. The only means of changing judicial policy was for the Prosecutor of the Supreme Court to issue instructions to prosecutors and magistrates requesting that procedures should be applied in a certain way.

8. Mr. LOURANTOS (Greece) said that there had been a number of allegations of ill-treatment by law enforcement officers in Greece. In 1996, Antonius Athanassiou had alleged that two police officers had subjected him to ill-treatment during an interrogation with a view to extracting a confession of car theft. The police officers had been suspended for two months, and charges had been brought against them under article 137 A of the Penal Code. In 2004, the officers had finally been acquitted by the Athens Court of Appeal when the complainant had withdrawn the allegations.

9. Leonidas Anastasiadas and Georgios Vassiliadis had alleged brutality by a police officer during an interrogation concerning their suspected involvement in drug trafficking. The police officer in question had been suspended for six months but had eventually been acquitted, as no evidence had been found of ill-treatment as defined in article 137 A of the Penal Code.

10. Demetrios Sarantaris, arrested in February 2000 for involvement in a drugs case, had alleged being beaten by police officers during an interrogation, which had resulted in proceedings being initiated under article 137 of the Penal Code. The complainant had been sentenced to two years' imprisonment for aggression and a further five months for possession of drugs. In the absence of any evidence of ill treatment, the case had been closed. Information on many similar cases could be made available to the Committee.

11. Mr. KOURAKIS (Greece) said that the need for border guards and the military to respect asylum principles had become an acute problem in recent years, as the reports of non-governmental organizations (NGOs) made clear. Appropriate training on constitutional law and human rights was provided for such personnel, and in 2003 new legislation relating to the use of firearms by the police and border guards had been introduced to replace legislation dating from the 1940s.

12. Mr. LOURANTOS (Greece), providing the disaggregated data requested in question 7 of the list of issues, said that in 2003 there had been 8,178 applications for asylum. The asylum-seekers' countries of origin included Iraq (35.2 per cent), Pakistan (8.6 per cent), the Islamic Republic of Iran (7.7 per cent), Afghanistan (7.2 per cent), Myanmar (6 per cent), Nigeria (5.7 per cent), Somalia (5.2 per cent), Bangladesh (3 per cent), the Sudan (2.7 per cent) and Turkey (2.6 per cent). Approximately 88 per cent of them were men between the ages of 18 and 40. Protection had been provided to some 40 persons, 4 under the 1951 Convention relating to the Status of Refugees and 36 on humanitarian grounds. Of the 29,527 illegal immigrants arrested in 2003, 23,408 had been men; 14,283 persons had been expelled, of whom 11,073 had been men.

13. Mr. KOURAKIS (Greece) said that it was very risky for a police officer to be charged with offences under article 137 A of the Penal Code, since a prison sentence of six months or more would entail the officer's dismissal. In that connection, he drew attention to a case in Kefalonia, where five coastguards had been given suspended sentences for the ill treatment of several asylum-seekers, including offences to sexual dignity. Under the Penal Code, suspended sentences could be given for ill-treatment and even converted into fines, whereas resisting authority was an offence for which a suspended sentence could not be awarded. If the coastguards were convicted they would undoubtedly lose their jobs.

14. Under article 8 of the Penal Code, offences committed abroad were punishable under Greek law. That was true also for offences covered by the express provision of an international agreement signed and ratified by Greece, such as the Convention against Torture.

15. Detailed written information had been submitted by his Government in 2002 on human rights education in the police academy. Such education was a matter of priority for the Government, which considered that from the very start of their careers, police officers must be apprised of the limits of their powers.

16. Mr. LOURANTOS (Greece) said that the police academy organized a range of training programmes for students at different levels dealing with social and civil rights, humanitarian law and relevant international treaties. The basic police academy curriculum included the study of human rights and constitutional law, and social issues, including the protection of such vulnerable groups as religious and ethnic minorities and former convicts. There were also special courses for border guards on constitutional law, the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

17. Mr. KOURAKIS (Greece) said that although there was no specific programme to provide medical training to law enforcement personnel so that they could identify and document cases of torture and assist in the rehabilitation of victims, he would not rule out the introduction of such a programme in the future.

18. The draft code of ethics prepared by the Directorate of Organization and Legislation of the Hellenic Police Force Command for use during interrogations had not yet been approved by presidential decree, largely because a new code of ethics was being prepared on the basis of a recommendation by the Committee of Ministers of the Council of Europe to States members of the European Union on the European Code of Police Ethics.

19. In 2002 the National Commission for Human Rights had published a comprehensive report containing observations and proposals on the conditions of detention in Greece, taking into account the comments made by the Committee against Torture, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and other relevant authorities. Its recommendations applied, inter alia, to the problem of overcrowding in prisons and were being considered by the Ministry of Justice.

20. Under article 37, paragraph 2, of the Code of Penal Procedure, all public servants had an obligation to report without delay all cases of torture or cruel, inhuman or degrading treatment or punishment drawn to their attention in the course of their duties. Article 40 of the Code established that private persons had the right to make formal complaints in such cases. He appealed to NGOs to be more forthcoming in reporting cases of torture and ill-treatment to the public prosecutor, who had the authority to initiate ex officio proceedings against the perpetrators, as the fact that many cases went unreported was a major obstacle to justice.

21. Most clashes between the police and the Roma had occurred after unsuccessful efforts by the authorities to enforce a judicial order. In one recent case, action had been taken when the Roma had refused to obey a court order to vacate a settlement located in a former military camp

in Aspropyrgos. That action had been considered acceptable in the light of article 1 of the Convention, which stated that the term “torture” did not include pain or suffering arising from, inherent in or incidental to lawful sanctions.

22. Mr. LOURANTOS (Greece) said that after exhaustive investigations into recent allegations of police violence against the Roma, sweeping arrests of Roma and arbitrary raids of Roma settlements by the police, the competent authorities had concluded that all action had been taken in accordance with the law and within the framework of official proceedings. None of the complaints of police violence during the demolition of illegal or unsanitary Roma settlements in Aspropyrgos had been substantiated.

23. Mr. KOURAKIS (Greece) said that the Roma had never been forcibly evicted from their settlements, even in cases of unauthorized settlement on another person’s property; they were, however, sometimes relocated to alternative settlement areas on the basis of arrangements made by the local authorities in cooperation with Roma representatives. All of the Roma families who had been asked to vacate settlements in the Athens municipality of Maroussi during the preparations for the 2004 Olympic Games had been provided with accommodation in another area of the city, rented for them by the municipality on the basis of a housing rehabilitation agreement signed by both parties. A significant amount of money was being channelled towards the Roma population in Greece within the framework of a six-year programme launched in 2002 that was aimed at providing all Roma families with a home of their own.

24. Although investigations were slow, justice was applied whenever a case involving ill-treatment by a police officer was brought to court. In addition to the penalty handed down by the court, all convicted police officers were permanently dismissed from the police force, which was considered to be a punishment in its own right. Once again a major obstacle to justice was the fact that many cases were not brought to the attention of the authorities.

25. Ms. PAPAMITROPOULOU (Greece) said that a number of mechanisms were in place to ensure the effective and independent supervision of detention facilities. In 2002 a new prison inspectorate had been established, headed by a former prosecutor and composed of civil servants and law enforcement officers. Inspectors were given free access to prisons across Greece and were required to carry out regular inspections. Deputies of the Greek Parliament and representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the National Commission for Human Rights were also allowed free access to prisons.

26. Mr. KOURAKIS (Greece) said that detainees were entitled to lodge complaints with either the prison authorities or the public prosecutor. The country’s four largest prisons had on-site prosecutors.

27. In 2001 a new law had been introduced in Greece stipulating that the judicial authorities were no longer held responsible for past decisions in which prison sentences had been handed down, thereby making it far easier for a person who had been wrongly convicted to claim compensation. Victims of torture or cruel, inhuman or degrading treatment were also able to claim compensation. Under article 543 of the Code of Penal Procedure, foreigners also had a right to claim compensation. Although he was unable to provide any statistical information, he assured the Committee that there had been an increase in the number of compensation claims made over the past three years.

28. Torture victims could obtain compensation through a civil suit in the absence of a guilty verdict in criminal proceedings. While the absence of a guilty decision in a criminal case would inevitably affect the civil suit, one decision did not necessarily presuppose the other. It was also possible for a victim to initiate proceedings before a civil court without first having sought justice through criminal proceedings.

29. Regarding modalities of cooperation and support afforded to NGOs offering medical rehabilitation to victims of torture, he said that the Medical Rehabilitation Centre for Torture Victims had been established in 1989 to provide assistance to victims of torture. It had a staff of 15, including doctors, psychologists and lawyers as well as a number of volunteers, and was accredited with the International Rehabilitation Council for Torture Victims, an international non-profit organization based in Copenhagen. The Centre received funding from the European Union, the United Nations Voluntary Fund for Victims of Torture and the Greek Parliament. It also received funding from the Ministry of Foreign Affairs, in recognition of the fact that up to 170 foreigners were treated at the Centre every year. The Centre also provided psychological treatment to approximately 500 relatives of tortured persons every year. The Centre had actively contributed to the establishment of a treatment and rehabilitation centre for victims of torture in Ramallah, Palestine, and 11 centres throughout the Balkan region.

30. Regarding article 105 of the Civil Code, under which the State was liable for compensation for illegal acts or omissions unless the act or omission was made in violation of a provision for the benefit of general interest, he said that it was crucial to understand what was meant by general interest in that context. In order for compensation to be granted, it was not sufficient for an act to have been in breach of the law; it must also have violated the rights or interests of another person as guaranteed by the provisions of a convention or law. If an illegal act violated only the general interest, a private person was not entitled to compensation. Nevertheless, the Greek courts had been fairly generous in granting compensation in recent years.

31. Ms. PAPAMITROPOULOU (Greece) said that as at the end of 2002 there had been 8,418 detainees in Greek prisons, which had an official capacity of 5,584 inmates; at the end of 2003 there had been 8,726 and in November 2004 there had been 8,627. A project introduced by the Ministry of Justice to address the problem of overcrowding by building 10 new prisons and refurbishing 7 existing ones within five years was progressing well: 6 new prisons were already under construction, and land had been acquired for the construction of a further 3. Efforts were being made to find land for further construction.

32. Mr. KOURAKIS (Greece) said that only 5 or 6 per cent of convicted persons actually went to prison; the others received non-custodial or suspended sentences, or paid a fine. According to data provided by the Council of Europe, Greece had one of the lowest prison occupancy rates in Europe: whereas the United Kingdom had a rate of 137.1 detainees per 100,000 inhabitants and the Netherlands had a rate of 105.8 detainees per 100,000, the rate in Greece was only 78.4 detainees per 100,000 inhabitants.

33. Overcrowding was due largely to the high numbers of undocumented migrants and asylum-seekers held in Greek prisons. Non-citizens accounted for roughly 40 per cent of the

total prison population. The fact that Greece was affected by migration disproportionately - approximately 10 per cent of the total population were non-citizens - placed a considerable burden on the country, but efforts were being made to address the problems associated with that phenomenon. New facilities were being constructed in an attempt to absorb the sudden influx of migrants, and increasing emphasis was placed on the use of alternative sentences to imprisonment in order to alleviate prison overcrowding.

34. Mr. LOURANTOS (Greece) said that five new intake centres for migrants and asylum-seekers having a total capacity of 1,070 persons had been opened in northern Greece. New facilities had also been created on the islands of Lesbos, Ios and Samos, with a capacity for 410 persons.

35. Mr. KOURAKIS (Greece) said that as Act No. 3064/2002 had been enacted only recently, no official data was yet available on the number of proceedings initiated and resulting convictions. Nevertheless, in the time since its enactment the new legislation had already proved useful in combating trafficking in human persons.

36. Mr. LOURANTOS (Greece) said that, according to police statistics, 49 trafficking networks had been dismantled in 2003 and 284 persons had been arrested and charged with the economic and sexual exploitation of 93 foreign women. State protection and assistance had been afforded to 28 of the victims. Thus far in 2004, 35 cases of human trafficking involving 161 victims had been recorded; prosecution of the perpetrators was still pending.

37. Mr. KOURAKIS (Greece) said that the adoption of a domestic violence bill was currently under consideration. At present, acts of domestic violence were punishable under provisions of the Penal Code relating to the infliction of bodily harm. While the enactment of specific legislation and the concurrent imposition of stricter sentences for acts of domestic violence were important, prevention was paramount. In that connection, the work of the Research Centre for Gender Equality (KETHI), which received complaints of violence against women and provided assistance to victims, was commendable. Raising awareness was vital, since women and children were often reluctant to denounce acts of domestic violence.

38. Under Act No. 3274/2004, children of non-citizens who had resident status in Greece were also granted the right to reside legally in that country. The Act had modified the provisions of article 44, paragraph 7, of the Immigration (Aliens) Act 2910/2001.

39. Greece's accession to the Optional Protocol to the Convention against Torture was currently under consideration. CPT undertook visits to places of detention every four years, and the Government had no objections to similar visits being carried out by a United Nations body.

40. Mr. KASTANAS (Greece) noted that Greece had fully supported the adoption of the Optional Protocol to the Convention against Torture. As a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, his country had ample experience with the relevant regional preventive mechanisms. However, the second pillar of the Optional Protocol - the national preventive mechanisms - warranted careful consideration, and he was currently unable to indicate a time frame for Greece's possible accession.

41. Mr. KOURAKIS (Greece) said that the act of using electroshock and other equipment designed to inflict treatment that amounted to torture or other cruel, inhuman or degrading treatment or punishment was punishable under article 137 A of the Penal Code. While the possibility of prohibiting and preventing the production, trade, export and use of such equipment was being contemplated, it was important to bear in mind that torture could also be inflicted by means other than the use of such equipment. It was therefore more important to foster an environment in which the commission of acts of torture became socially unacceptable.

42. Two laws had been adopted in 2002 and 2004 to respond to the threats posed by terrorism. The provisions applied solely to acts of terrorism, and the 2004 act contained a clause specifying that a person's exercise of his or her human rights and fundamental freedoms, such as the right to peaceful protest, did not constitute a terrorist act. That provision illustrated the Government's commitment to safeguarding respect for human rights in the fight against terrorism.

43. Mr. RASMUSSEN (Country Rapporteur) thanked the delegation for its presentation but noted that the structure of the report before the Committee did not fully comply with the guidelines for the preparation of periodic reports. It was regrettable that the Committee's request for additional information following the consideration of Greece's third periodic report had not been adequately met.

44. Mr. YU Mengjia (Country Rapporteur) thanked the delegation for its detailed replies to the questions contained in the list of issues. He commended the State party on the measures taken to enhance the implementation of the provisions of the Convention, including the adoption of the new Prison Code and efforts to combat human trafficking. The Committee had also taken note of the State party's assurances regarding respect for human rights, equality and non-discrimination in the context of law enforcement. However, there appeared to be a noticeable discrepancy between the information provided by the Government and materials received from other sources. While the Committee recognized the burden placed on the State party by the influx of migrants and asylum-seekers, no special circumstances could ever justify acts of torture.

45. He asked the delegation to comment on allegations of ethnic and racial discrimination, in particular the discrimination and ill-treatment of members of the Roma community and Albanian immigrants. NGO reports suggested that members of those communities had been subjected to ill-treatment when detained and during the deportation process. He had been particularly concerned over the disappearance of some 500 street children, mostly Albanian, who had been admitted to a childcare institution and had subsequently disappeared. He wondered whether the neglect of those children might be related to their ethnic origin and whether the persons responsible for the children's disappearance had been identified and charged with negligence.

46. Widespread impunity for crimes involving trafficking in human beings and the lack of adequate punishment of negligent judicial officials involved in the proceedings relating to such offences were also cause for concern. According to NGO reports, no judicial proceedings had been instituted in 117 cases involving human trafficking and five raids on Roma settlements.

47. Although the report stated that UNHCR and NGOs were granted unhindered access to places of detention, NGOs had reportedly encountered difficulties in gaining access, and he asked the delegation to comment on those reports. The State party's report had referred to the low rates paid to attorneys appointed ex officio to defend detained persons who could not afford their own lawyers. He wished to know whether that meant that such attorneys were not adequately qualified, in which case the detainee's right to effective and competent counsel was not fully guaranteed. The report stated that the presence of a lawyer was permitted in disciplinary proceedings for petty ("A" class) offences, and he would welcome clarification on the regulations governing the presence of lawyers in other types of judicial proceedings.

48. Concerning non-refoulement, he asked the delegation to comment on allegations that the police ill-treated and tortured migrants and asylum-seekers. If reports that the police resorted to summary proceedings to expel migrants were true, he wished to know how compliance with article 3 of the Convention was ensured. He also asked the delegation to explain why only seven people had benefited from the provisions in Greek legislation that entitled women victims of traffickers to obtain residency permits, and to provide information on the cases of several Albanians who, despite having lived and worked in Greece for several years, had been ill-treated and repatriated to Albania while their abusers went unpunished. Lastly, he sought further information on the content, implementation and outcome of the agreement concluded between Greece and Turkey to resolve the illegal immigration problem.

49. Mr. RASMUSSEN noted with satisfaction that the delegation had commented on the alternative reports compiled by NGOs, but suggested that the Government should also consider seeking information from NGOs when compiling its reports, since NGOs could sometimes provide information and statistics that the Government lacked.

50. He wished to know whether the Government planned to take action to address the lack of comprehensive training for medical personnel and law enforcement officials, which had been a subject of concern when the Committee had considered the third periodic report of Greece. He referred the State party to the Istanbul Protocol and said that it was particularly important that prison doctors should receive training in detecting and documenting torture. He asked whether the State party was in the process of following up the Committee's previous recommendations. He also wished to know whether it gave consideration to implementing the recommendations made by NGOs, which were often instructive.

51. He asked to be updated on the status of the draft code of ethics during interrogation, mentioned in paragraph 44 of the report. He urged the State party to consider recording all interrogations on audiotape or videotape, which would not only protect suspects against ill-treatment by their interrogators but would also protect police officers against unfounded accusations. He asked whether officials were suspended from their duties when under investigation for any kind of wrongdoing, as that was essential to ensure the impartiality of investigations. He also wondered whether the State party was satisfied that investigations into complaints of ill-treatment were sufficiently prompt.

52. He drew attention to the recommendation made in paragraph 19 of the report by CPT on its visit to Greece, concerning the handling of allegations of ill-treatment. Without statistical data on such matters, it was impossible to know whether a problem existed. The Government should take steps to remedy the lack of statistics regarding complaints of ill-treatment and the number of persons receiving medical treatment or monetary compensation following ill-treatment.

53. With regard to article 15, he asked whether there had been any cases of evidence being declared inadmissible because it had been obtained through torture. He expressed concern about the poor conditions in which asylum-seekers were detained; in particular, they seemed to lack a meaningful way of spending their time as well as adequate outdoor exercise. He asked the delegation to comment on reports that the Ombudsman had encountered obstacles when visiting some facilities. He would like to have further information about the process by which the prison system returned foreign prisoners to their home countries. He also wished to know whether there had been any improvement in the conditions in which Albanians were held when detained by border guards.

54. Mr. EL MASRY said that although the demolition of houses might in some circumstances be of benefit to the inhabitants, it must be carried out only by court order and with the provision of adequate compensation and alternative lodging. He was therefore concerned by reports of two demolitions that appeared to have been undertaken without those safeguards solely for the purpose of evicting the Roma inhabitants.

55. With regard to the information provided on asylum applications, he explained that simple numbers were not a helpful indicator, since the total number of asylum-seekers had increased dramatically in recent years. Instead, the Committee needed to see those figures as percentages.

56. He asked the delegation to comment on the cases of: Joseph Emeka Okeke, who appeared to have been deported in order to prevent him from giving evidence against the police officers who had ill-treated him; Jahangir Alam and Onuchukwu Ucheanna Ezekiel, who had been forcefully sedated with the aim of facilitating their deportation; and the 500 Roma and Albanian children who had gone missing while in the care of the State.

57. Ms. GAER asked the delegation to venture an explanation as to why foreigners comprised almost half of the total prison population and wished to know what was being done to address that fact. She also wished to know what measures had been taken to increase the number of women in the police force and what kind of gender-sensitivity training, if any, male police officers received. She wished to learn the Government's position on the question of NGO access to detention facilities, and wished to know in particular why a request by Greek Helsinki Monitor to visit an Athens prison had been denied. She requested clarification of the circumstances in which the Government was able to have rape charges dropped when the suspected perpetrator was in government service. Lastly, she wished to know details of any cases similar to that of the five coastguards given suspended sentences following their conviction for sexual abuse of asylum-seekers, and how conviction rates for rape committed by police officers or officials differed in comparison with the conviction rates for ordinary citizens charged with rape.

58. Mr. GROSSMAN expressed concern about reports from several sources of police misconduct. He asked whether medical personnel followed an established procedure for reporting suspected ill-treatment and whether they were required to make such reports orally or in writing. He wished to know the procedure for initiating a medical investigation into allegations of torture or ill-treatment. He asked what action was taken in response to the findings of the Ombudsman, and whether the State party engaged in dialogue with NGOs. He wished to know how the percentage of police officers or officials receiving either non-custodial sentences or the minimum custodial sentences as compared with the corresponding rates for ordinary citizens.

59. He requested more information about the allegation by NGOs that unaccompanied alien minors and victims of child trafficking were treated as criminals and, when deported, simply deposited at the border. Was the delegation satisfied that everything possible was being done for such children? Lastly, he requested statistics on the number of cases and convictions for sexual assaults, and asked what was done to shield the victims of sexual assaults from their attackers in court.

The meeting rose at 1.15 p.m.