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

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Committee against Torture
Forty-fourth session

Summary record of the 928th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 27 April 2010, at 10 a.m.

Chairperson: Mr. Grossman

Contents

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

Consideration of reports submitted by States parties under article 19 of the Convention

Fourth to sixth periodic reports of France (CAT/C/FRA/4-6; CAT/C/FRA/Q/4-6; CAT/C/FRA/Q/4-6/Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of France took places at the Committee table.*

2. **The Chairperson** welcomed the delegation and invited it to introduce the fourth to sixth periodic reports of France (CAT/C/FRA/4-6).

3. **Mr. Mattéi** (France) reaffirmed his Government's commitment to pursuing implementation of the Convention and said that, while work still remained to be done, considerable progress had been achieved in that regard since consideration of his country's previous report by the Committee in 2005. He would be giving an overview of some of the most significant developments, but first he wanted to place recent measures taken at the national level in the context of France's efforts to prevent torture at the international level.

4. His Government was particularly active within the framework of the United Nations, especially in supporting national human rights protection mechanisms and the work of the Special Rapporteur on torture, Mr. Manfred Nowak. It was also campaigning actively to bring about the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance, which was a key instrument in the fight against torture. Following necessary constitutional reform, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, had entered into force in France on 2 January 2008. France called on States that had not already done so to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as it had done in December 2008.

5. Within the context of other international forums, France had ratified the Council of Europe Convention on Action against Trafficking in Human Beings in 2007 and it had also been involved in developing the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which it had signed in 2007. Within the European Union, France was assisting in the development of local strategies to implement guidelines on torture and was cooperating with the European Union Fundamental Rights Agency.

6. In view of the diversity of international bodies to combat, prevent and punish torture, France would like to see enhanced coordination between them, especially between the Committee and the Council of Europe's European Committee for the Prevention of Torture, in order to increase their effectiveness.

7. At the national level, he wished to highlight progress that had been made regarding three particularly vulnerable groups: asylum-seekers, prisoners and, more generally, all persons deprived of their liberty.

8. With respect to asylum-seekers, French legislation guaranteed the right of asylum not only to persons within the definition of the Geneva Convention but also, since the Act of 10 December 2003, to persons subjected to death threats, torture or inhuman or degrading treatment, or general conflict-related violence. The protection mechanism had been further strengthened in recent years and, since the Act of 20 November 2007, persons refused asylum at the border were entitled to suspensive legal appeal and could no longer be deported until the administrative judge had given a ruling. Under that procedure, the asylum-seeker could be heard, request the assistance of an interpreter and be assisted by

counsel (appointed by the court if necessary); the judge looked closely at the decision to refuse asylum and could set it aside if he or she believed the asylum-seeker would be exposed to danger if returned. Those measures took account of concerns expressed by treaty bodies and of the ruling rendered by the European Court of Human Rights (*Gebremedhin v. France*, 27 April 2007) and were evidence of France's willingness to enforce decisions by European courts.

9. In 2009, some 10,000 persons had obtained international protection either pursuant to the Convention relating to the Status of Refugees or on the basis of subsidiary protection, and there were currently more than 150,000 persons with special protection in France. In 2008, France had signed an agreement with UNHCR to resettle refugees who were in vulnerable situations in a country of first asylum. In 2008, 347 persons had been resettled and a further 98 had been accepted under the 2009 programme, which was ongoing.

10. Turning to the situation of prisoners, he said that his Government was fully aware of the difficult conditions in French prisons. It paid particular attention to observations made by the Committee, the European Commissioner for Human Rights and the European Committee for the Prevention of Torture, and was guided by them in its action to promote greater respect for the rights of prisoners. The Prisons Act of 24 November 2009, which incorporated as fully as possible the requirements of the revised European Prison Rules, had given fresh impetus to the work of the prison authorities.

11. The Act had had a positive impact in a number of areas. Prison was no longer viewed as only a means of punishment, and the role of prison authorities in promoting rehabilitation and preventing reoffending had been asserted. The Act had led to the extension of alternative sentencing, a reduction in the use of solitary confinement and more restricted use of full body searches.

12. Suicide had been a serious problem in prisons for several years and was the focus of determined efforts to prevent it through the provision of better care for prisoners with psychiatric disorders. A radical overhaul of the psychiatric care system was also under way.

13. Turning to the issue of independent human rights protection mechanisms, he said that since 2008 the Constitution had provided for the establishment of the office of Defender of Rights (*Défenseur des Droits*), tasked with ensuring that administrative bodies respected the rights and freedoms of individuals. That reform had become necessary on account of the proliferation of independent administrative bodies whose apparently overlapping responsibilities had created the impression of a lack of transparency among the general public. The details of the mandate of the Defender of Rights had yet to be defined but his or her powers would be enhanced, compared with those of the bodies that would be replaced as a result of the creation of that office.

14. The Inspector General of Prisons had taken up office in June 2008, with a staff of 20, including 14 inspectors. To date, a total of 215 visits had been carried out, equally divided between visits to places where persons were held in custody, prisons and other places of deprivation of liberty. Reports had been filed following each visit and nine of them had been made public. Recommendations made as a result of those visits were followed up by the authorities.

15. In conclusion, he said that his delegation looked forward to continuing its constructive dialogue with the Committee which had begun nearly 20 years previously.

16. **The Chairperson** thanked the representative of France for his statement and for the detailed replies his Government had provided in writing.

17. Speaking as Country Rapporteur, he expressed concern that the definition of torture provided by the State party in its replies to the list of issues raised by the Committee was not in strict conformity with article 1 of the Convention, which set out the sort of precise

definition that was required by criminal law. The State party had acknowledged that its Criminal Code did not define the concept of torture and it had referred to a definition of torture that was supplied by case law. He was surprised that France should rely on case law and pointed out that the terms used to describe torture in that definition, for example "acts of exceptional seriousness", were not the same as those used in the Convention, which referred to "any act by which severe pain or suffering … [was] intentionally inflicted". He asked the delegation whether it could cite specific examples of cases in which the "case law definition" had been applied and interpreted in accordance with the definition set forth in the Convention.

18. He was also concerned that France did not regard torture as an imprescriptible crime. In its written replies it had indicated that torture or acts of barbarity were only considered to be imprescriptible if they were committed as part of an organized plan and on ideological grounds and were therefore classified as crimes against humanity. He wondered how such a position could be considered to be compatible with article 4 of the Convention, which required that each State party should "ensure that all acts of torture [were] offences under its criminal law", and he expressed surprise at the idea that when there were ideological grounds, it was not necessary to punish torture if it had occurred 10 or more years previously. He asked the delegation to clarify that matter.

19. Turning to article 2 of the Convention, he noted that, according to paragraph 69 of the State party's report (CAT/C/FRA/4-6), an Act of 5 March 2007 provided for suspicion of terrorist involvement to be invoked as "exceptional circumstances" in order to justify failure to make audio-visual recordings of persons held in police custody. Was any effort now being made to eliminate such an exception? The principle of equality before the law would be undermined if certain categories of suspects could be treated differently from others. Moreover, such an exception did not protect the police in any way, since it was not unknown for detainees, once released from custody, to accuse police officers of committing serious offences against them.

20. The same Act provided for the installation of cameras only in places where suspects were questioned. Their protection would be enhanced if recordings were also made during their transfer to and exit from such places. There had been a number of allegations of mistreatment of detainees in cases in which their families had been told that the cameras, although installed, were not working. Those cases included the death of Mohamed Benmouna, found hanged in his cell while in police custody, and Abou Bakari Tandia, who had also died following a spell in police custody, his death being attributed to "multiple organ failure" caused by self-inflicted injuries. In the latter case, the family had been told that another detainee had pulled out the camera cables. It was strange that no police report existed in relation to that statement, and that it was not borne out by the subsequent investigation, which had been in progress for over five years, all the evidence remaining in the hands of the State.

21. The Committee had already put the question whether a medical report was automatically issued for a detainee who had been injured either during or after arrest (CAT/C/FRA/Q/4-6, para. 4). Why was there no compulsory requirement for a medical certificate in the event of injury? What kind of medical certificate was actually used? Was it correct that terrorism suspects could not obtain any medical supervision or treatment during their first 48 hours in police custody?

22. According to paragraph 72 of the State party's written replies to the list of issues (CAT/C/FRA/Q/4-6/Add.1), where detainees were suspected of terrorism or drug-trafficking they had no access to a lawyer until they had been in custody for 72 hours. Those restrictions were explained by the "specific nature" of the offences concerned. It must be asked whether they were compatible with the Convention, given the requirement under article 2 for equality of treatment.

23. Paragraph 117 of the State party's written replies made reference to a decision of the Council of State of 2 September 2009 rescinding its decree of 22 September 2008, which had authorized the use of tasers by municipal police forces. It was important to know the reasoning behind that decision. It was also important to know what kind of "experiment" was in train with the use of tasers in certain prisons (para. 105) and how long it would last. According to paragraph 101, they were to be used "with caution" in the case of elderly persons, drug addicts, persons with heart problems and intoxicated persons, but it was hard to see how those distinctions could be observed, or indeed whether children were to be excepted. The possibility of abuse was very high. Were cases of taser use investigated? Were there any sanctions for misuse? And was misconduct with tasers actually punished? The State party was arguing that it had reduced the use of lethal force against persons in custody; however, tasers were known to cause dozens of injuries every year, some of which might be the result of misconduct, a breach of regulations or inadequate training.

24. With reference to article 3 of the Convention and the fact that the accelerated asylum procedure did not have suspensive effect, he noted that, according to Amnesty International, a Tunisian asylum-seeker, Houssine Tarkhani, had been forcibly returned from France to Tunisia in June 2007 even though an appeal had been pending in relation to his claim for asylum. He had subsequently been detained in Tunis and reportedly tortured and threatened with death. It must be asked how many more people had been subjected to the accelerated asylum procedure.

25. The existence of a list of "safe countries" where failed asylum-seekers were deemed not to be at risk of torture if returned offered no guarantee to the persons concerned. How often was the State party's list of "safe countries of origin" (CAT/C/FRA/4-6, para. 41) reviewed? What mechanism was employed to review it? And did any consultation with civil society organizations take place during that process? What level of proof was required to overturn the presumption that a given country was "safe"?

26. In 2008, the deportation from France of Kamel Daoudi, an Algerian national, had been suspended because he had applied for interim measures to the European Court of Human Rights. What was the current legal status of that person? The same question applied to Yassine Ferchichi, who had also been the subject of interim measures by the European Court of Human Rights, and whom the Senegalese Government had refused to return to Tunisia following his removal from France.

27. Commenting on the State party's observation, in paragraph 197 of its written replies, that the Rome Statute of the International Criminal Court did not require any State party to exercise jurisdiction for genocide, crimes against humanity and war crimes if there was no territorial link or link of nationality between that State party and the crimes, the perpetrators or the victims, he said that the territorial principle also extended to a person's presence in a given country. Apparently, the bill adopted by the Senate on 10 June 2008 would confine the exercise of jurisdiction to persons habitually resident in French territory, which would be inconsistent with the territorial principle. The obligation either to try or to extradite presumed perpetrators was explicitly upheld in article 5 of the Convention. Had the State party extradited any presumed perpetrator to a place where he or she could be tried?

28. Lastly, he noted that an enactment of 10 March 2010 had significantly expanded the scope of pretrial detention.

29. **Ms. Belmir** noted the emphasis placed by the State party on security and crime prevention. However, the question should always be asked whether the legislative apparatus of the State met the needs of an evolving society. The creation in the State party of separate categories of detention for those suspected of terrorism and drug-trafficking called into question the preservation of human dignity and the protection of human rights, which lay at the heart of the State party's legal system.

30. With regard to article 10 of the Convention, she emphasized the importance of training for law enforcement personnel and prison staff in the prohibition of torture. The State party appeared to believe there was no need to update the ethics manual for the national police, referred to in question 19 of the list of issues. However, the continuing use of the "ventral decubitus" position was a matter of concern. She was also concerned about the use, however limited, of tasers in places of detention.

31. Turning to article 11 and the power of the judiciary, she referred to her earlier remarks about encroachment on elements of due process. It was said in the State party's written replies that the State prosecutor monitored the custody procedures, the proper notification to the detainee of his or her rights, the physical conditions of custody and, in particular, the principle of respect for human dignity. The State prosecutor produced reports on those monitoring activities, an annual summary of which was submitted to the Minister of Justice. Those reports were supposed to be published, but the Committee had not been told whether or not that did in fact happen. However, that process intersected with the work of another authority, the Inspector-General of Prisons. That official drew up reports on the situation of people in custody overall, but the Committee did not know whether there was coordination between the two offices, or whether their tasks overlapped. She hoped that information could be provided on that issue.

32. Referring to the question of the differentiated system covering detainees, she was concerned that the regime under which detainees were held was not clear.

33. Turning to what she saw as a major difficulty in the treatment of people by the justice system, she observed that while persons accused, in detention or sentenced had the right to make a complaint if they were tortured or ill-treated, it was always the case that their complaints were blocked by countervailing complaints by the police to the effect that the victims' behaviour had been such as to merit restraint, which was now being portrayed as ill-treatment. Alternatively, the police simply denied that the ill-treatment had taken place. Thus the victims never had the opportunity to have their complaints heard. In that respect improvements needed to be made.

34. On the issue of unaccompanied minors detained in holding areas, she observed that the State party considered those areas not to be part of the national territory. By means of a jurisdictional fiction, they were considered to be places where the law did not apply. Children held in such areas were often sent back to their country of origin, or to other countries, without being attended by the ad hoc administrator, and with their chances of appearing before a judge being purely random. Often such detainees — children between the ages of 6 and 12 — were threatened and forced to sign a record of what had happened to them. Understanding that there was discussion within the State party on the desirability of treating such children in the same way as children in the territory of France, or of making their conditions of detention the same as other people's, she sought the views of the delegation on the matter.

35. A related situation was that of children accompanying adults who were in an illegal situation; they were consequently forced to undergo the same conditions as the adults.

36. Finally, referring to a case that had to do with the handling of crimes against humanity, she recalled the situation of Ricardo Cavallo, the infamous torturer at the School of Naval Mechanics in Buenos Aires, who was currently under indictment in Argentina for his crimes but who, when serving in France as a naval attaché, had been awarded the French Order of Merit. She invited the State party to reflect on that case, which raised the question of the imprescriptibility of acts of torture, confirming the view of the Committee on the whole concept of torture.

37. **Mr. Bruni** said he wished to revert to an issue already raised by the Chairperson. Paragraph 7 of the report confirmed that there was no definition of torture in French

legislation but referred instead to case law, namely a finding of the Indictment Division of the Lyon Court of Appeal, which served as a definition. That finding stipulated that an act of torture must include a material element involving the commission of an act or a number of acts of exceptional seriousness. He wondered how "seriousness", and "exceptional" were to be defined.

38. Turning to article 2, paragraph 3, of the Convention, which prohibited anyone from invoking orders from a superior officer as a justification of torture, he observed that paragraph 171 of the report gave a summary of the soldier's statutory obligations, prohibiting the use of torture, but he wished to understand the basis on which acts of torture could be clearly distinguished from other forms of violence that were less serious. That was a theoretical, juridical consideration, but at the practical level did the French military world include a mechanism for recourse against an order of a superior which appeared to the subordinate to involve acts of torture? It was a fine principle that one must not obey such an order, but in practice what means did a subordinate have to avoid doing so?

39. Another issue under article 2, also already mentioned by the Chairperson, related to the audio-visual recording of interrogations. Paragraph 70 of the report stated that recording of interrogations would make the proceedings more secure, while constituting a safeguard both for potential defendants and for investigators in relation to the risk of torture. But then the following paragraphs described exceptions: for example, the interrogation of persons suspected of terrorism was recorded only with the authorization of the State prosecutor or the investigating judge. If, in the normal case of someone suspected of terrorism, there was no recording, and no right to see an attorney in the first 72 hours of detention, the situation did not present sufficient guarantees. He asked why, if recording was a safeguard against the risk of torture, it was made an exception rather than the rule in the case of interrogations of terrorism suspects.

40. Turning to article 11 of the Convention and in particular the creation of the Office of the Inspector-General of Prisons, which fulfilled the obligation assumed by France on ratifying the Optional Protocol, he observed that, according to the written replies, staff of that Office had already made 215 visits to places of detention. In real terms, what was the impact of that new institution on the prison environment? Nine observations or recommendations of the Inspector-General had been made public, but what follow-up had occurred? Simply making the recommendations public was not enough.

41. The Act of 30 September 2007, which had instituted the Office of the Inspector-General of Prisons (report, para. 106), stated that his representatives could visit, at any time, any place within the territory of France where persons were deprived of liberty by a decision of a public authority. He asked whether that meant that, if there were places of detention under French jurisdiction but not in the territory of France, they could not be visited. If that was the case, what authority monitored them?

42. Further, paragraph 483 of the written replies stated that the functions of certain existing bodies, probably including the Inspector-General of Prisons, might be entrusted in some years' time to the Defender of Rights, the new institution currently under study by Parliament. He sought clarification on whether it was planned to absorb the Inspector-General of Prisons into the new institution, or whether there would be coordination between the two institutions. It seemed that the National Consultative Commission for Human Rights and other organizations did not agree with that proposal, considering it necessary to retain specialized expertise in the crucial domain of torture prevention. He sought the views of the delegation on that matter.

43. In relation to article 16 of the Convention, he raised the question of prison overcrowding, a topic covered at length in the report and the written replies. In a response to the European Committee for the Prevention of Torture, France had stated that the period

2007–2009 had seen the creation of 9,000 new prison places, with the aim of having 63,000 places by 2012. Additionally, 30 million euros had been allocated to renovation of 136 prisons. He wished to know, firstly, what was the state of that programme at present. Secondly, he wondered whether building or enlarging was the only solution to overcrowding. Might it not be a good idea to consider alternative measures such as penalties not involving loss of liberty, particularly for minor offences or to be applied near the end of an offender's sentence?

44. It had been reported that the prison occupancy rate had gone down from 121.7 per cent in July 2007 to 110.9 per cent in January 2010. But that indicated that the alternative measures were not having much of an effect, because if it was said that there had been a 22 per cent drop in the number of sentences, the overcrowding must have been far higher. That seemed to suggest that the alternative measures should be accelerated.

45. Turning to the problem of the high number of prison suicides, one of the highest rates in Europe, he asked what had happened with the August 2009 action plan of the Minister of Justice designed to lower the rate. Had it been implemented?

46. **Ms. Gaer** said that one of the procedures that the Committee had adopted was a follow-up procedure, in which it gave recommendations for an accelerated response, within one year of the review, to certain concluding observations. In the case of France, original recommendations 10, 15 and 18 fell under the accelerated procedure, and the State party had indeed responded promptly. Some members of the Committee had been puzzled on reading the report to find that all recommendations appeared to have been addressed except those three. However, they were covered in document CAT/C/FRA/CO/3/Add.1, which was very informative, but she suggested that a cross-reference to that document should have been included in the main report.

47. There were just a few points that were not clear in the reply concerning the accelerated procedure. While the Chairperson had earlier discussed the whole issue of asylum appeals with suspensive effect, she also wished to know whether the State party ensured that all individuals subject to deportation orders had adequate time to prepare their asylum application, and whether such people had access to translators. The annex to the report, with all the details of asylum-seekers and the outcomes of their applications, was exemplary but it raised other questions. She asked whether there was any information about the length of time over which those people had made their appeals, how many of them had had access to translators and whether measures to improve the situation were envisaged.

48. The documentation indicated that women had been granted asylum in about 35 or 40 per cent of cases, but there was a distinct discrepancy between the numbers of single women, on the one hand, and women in other categories, on the other. Was there a reason, a matter of law or of fact, to explain that? In particular, she wondered if the preponderance of single women admitted bore any relationship to human trafficking.

49. On the issue of training, to which Ms. Belmir had already alluded, she asked whether there had been any specific instructions to law enforcement officials on the use of severe immobilization procedures, such as "ventral decubitus". Were there any measures in place to monitor law enforcement officials' use of such techniques? Had any officers been disciplined for using those techniques without authorization or excessively?

50. There were continued reports of police violence against persons in custody, particular those of non-Western origin. She sought information on measures to prevent such abuse. In particular, were there plans to shorten pretrial detention? And did the State party consider that that would bring about an improvement?

51. The Committee had received information from the French section of the International Prison Observatory alleging that the practice of body searches was arbitrary,

varying from prison to prison and in frequency, and that the searches were often carried out in a humiliating manner. State institutions, including the highest administrative bodies, had called for that issue to be addressed, but she understood that the prison law adopted on 24 November 2009 had widened the scope of what was permitted in terms of body searches, including body cavity searches. She asked whether the State party had any statistics on changes in the use of such procedures since concerns had been raised by the European Committee for the Prevention of Torture, and secondly whether any moves had been made to replace those procedures by electronic means such as scanners. She also asked for comments on how body searches were conducted in the case of female prisoners.

52. Turning to the issue of universal jurisdiction and the question of the relationship of France with Rwanda, she asked whether the law had been changed so that perpetrators of genocide who had sought refuge in France could be tried in France for their crimes.

53. **Mr. Gaye** noted that the State party had cited a ruling by the Indictment Division of the Lyon Court of Appeal in support of its argument that the definition of torture contained in the Convention had been integrated into domestic law. He pointed out that the Division was an investigative body, whose rulings did not constitute jurisprudence, and that the Court of Cassation was the ultimate authority in that regard. In any case, the French courts had been under an obligation to apply the Convention definition since the date of ratification of the Convention by the State party.

54. Referring to article 10 of the Convention, he asked whether information regarding the prohibition of torture was included in the initial and in-service training of law enforcement personnel and, if so, whether the content and practical relevance of the courses were reviewed at regular intervals.

55. Some NGOs had expressed concern about the terms of reference of the future Defender of Rights, who would be responsible both for oversight and inspection and for the investigation of complaints. The two functions should, in his view, be kept separate.

56. **Mr. Mariño Menéndez** asked whether applications for asylum submitted to French embassies or consulates abroad were admissible. He also wished to know whether asylum applications submitted by foreign nationals who had entered France illegally were treated differently from those submitted by foreigners whose papers were in order. Had the French Government requested diplomatic assurances in any case of extradition or refoulement of a foreign national where there was a risk of torture or ill-treatment?

57. The Committee had twice requested France, as a State party which recognized its competence under article 22 of the Convention, to take interim measures to avoid irreparable damage to victims of alleged violations. The State party argued in its response to question 15 of the list of issues (paras. 187 and 188) that its failure to respond to such requests did not constitute a violation of article 22. He submitted, however, that requests for interim measures were important from a moral and perhaps even a legal point of view. The Committee acted in good faith and expected States parties to do likewise.

58. He asked whether public prosecutors possessed exclusive authority to close a preliminary investigation file concerning reports of torture or ill-treatment by law enforcement officials or whether such a decision could be appealed before the courts. The powers of public prosecutors also seemed to be enhanced by recent legislation extending the period of pretrial detention, possibly at the expense of investigating judges.

59. It had been reported that evidence obtained under torture in third States could be used under certain circumstances in French territory. He asked whether a confession obtained under duress abroad could be admitted as evidence in a French court if the person concerned was extradited to France.

60. On the question of international impunity, he noted that a criminal complaint had been filed in October 2007 against Mr. Donald Rumsfeld, former Secretary of Defense of the United States, who had been on a private visit to France at the time. The French authorities had ruled out legal proceedings on the ground that he enjoyed immunity. He invited the delegation to comment on what seemed to be a somewhat broad interpretation of the concept of immunity.

61. Noting that the Office of the Inspector-General of Prisons had been established with a view to complying with the provisions of the Optional Protocol to the Convention, he asked whether existing bodies that performed similar functions would be maintained.

62. The State party was under an obligation to prevent acts of torture and ill-treatment even if they were committed within a private company. Had the large number of suicides in France Télécom given rise to a public investigation?

63. **Mr. Gallegos Chiriboga** joined Mr. Bruni in requesting additional information regarding the somewhat discriminatory treatment of detainees in the French overseas territories, particularly in terms of overcrowding.

64. He also supported Ms. Belmir's comments regarding the Order of Merit conferred on the former Argentine naval officer Ricardo Cavallo, who had been charged with torture and murder.

65. He drew attention to a report by the NGO Franciscans International concerning the ill-treatment of older persons in French institutions.

66. He was also disturbed by reports of cruel, inhuman and degrading treatment that prevented minorities, especially Muslims, from integrating into French society. He referred in particular to attitudes to the Islamic headscarf and niqab.

67. **Ms. Kleopas** commended the consultations that the State party had conducted with civil society on the report through the National Consultative Commission for Human Rights. However, the Commission itself had expressed disappointment at the fact that, although consultations with the Government had taken place, its recommendations had not really been taken into account.

68. According to the International Commission of Jurists, terrorist suspects were not allowed upon arrest to have immediate access to a lawyer, to inform relatives or to have access to an independent doctor. They were thus held virtually incommunicado for two or three days. Stressing that most cases of torture and ill-treatment occurred during that period, she enquired about the legal provisions concerning such exceptions.

69. According to Amnesty International, prosecutors or judges were not prohibited in cases concerning alleged misconduct by law enforcement officials from instructing judicial police officers from the same force as the alleged perpetrators to assist with the investigation. The independence of the investigations had therefore been queried. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had stated on several occasions that such conflicts of interest constituted the main obstacle to combating impunity. Amnesty International also claimed that it was not unusual for the prosecutorial authorities to close investigations into allegations of human rights violations by law enforcement officials after minimal investigation, basing their decisions heavily on the testimony of the law enforcement officials without seeking further evidence. The case of Albertine Sow illustrated the reluctance of judicial authorities to investigate a complaint of ill-treatment filed against law enforcement officials, despite the existence of evidence and statements by witnesses confirming the allegations.

70. According to Amnesty International, the lack of prompt investigations was illustrated, in particular, by the case of Abou Bakari Tandia, whose family was still awaiting a response more than five years after his death.

71. The National Consultative Commission for Human Rights stated that individuals who wished to complain or to act as witnesses were sometimes treated as suspects or were accused of insulting the police.

72. She understood that the Inspector-General of Prisons was not authorized to visit detention centres that were not under French jurisdiction. Was there a specific legal provision to that effect?

73. **Ms. Sveaass** noted that France was caught between the Scylla of short periods of hospitalization for psychiatric patients and the Charybdis of enforced treatment. The number of involuntary hospitalizations was comparatively high and the lack of legal safeguards had been criticized. She enquired about measures to ensure that the rights of persons hospitalized under such conditions were enforced and asked whether psychiatric hospitals were visited by the Inspector-General of Prisons? She also requested information about psychiatric care for detainees.

74. She asked whether training courses for law enforcement personnel also covered the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, commonly known as the Istanbul Protocol.

75. Referring to information provided by Amnesty International about plans to build a new detention centre for migrants in the French overseas territory of Mayotte, she enquired about the possible impact of the new facility on minors in particular.

76. With regard to asylum-seeking girls who faced the risk of genital mutilation if they were returned to their country, she noted that various options had been discussed in the State party. Were any protective measures being taken on their behalf?

77. **Mr. Wang Xuexian** said that the process of social integration in France, which affected the culture, religion and customs of certain groups, might cause mental distress. Were there any safeguards in place to prevent such undesirable consequences?

The meeting rose at 12.55 p.m.