



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

Distr.: General
3 August 2022

Original: English

Committee against Torture
Seventy-fourth session

Summary record of the 1924th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 20 July 2022, at 3 p.m.

Chair: Mr. Heller

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Initial report of the State of Palestine (continued) (CAT/C/PSE/1)

1. *At the invitation of the Chair, the delegation of the State of Palestine joined the meeting.*
2. **Mr. Habalreeh** (State of Palestine) said that his Government was eager to do everything in its power to combat torture, which it considered to be a very serious offence. Recent emergency legislation had been used exclusively to support the Ministry of Health as it sought to cope with the challenges posed by the coronavirus disease (COVID-19) pandemic. The legislation served no ulterior purpose and had not been used for political ends.
3. **A representative of the State of Palestine** said that, like other countries around the world, Palestine had acted to combat the COVID-19 pandemic in line with recommendations issued by the World Health Organization (WHO). A state of emergency had been declared in accordance with articles 110 to 114 of the Palestinian Basic Law, which contained the provisions applicable in such circumstances and according to which fundamental rights and freedoms could be restricted only to the extent necessary to fulfil the purpose set forth in the decree declaring the state of emergency. Otherwise daily life had continued as normal and detained persons had retained their legal rights to appoint a lawyer and to have their detention reviewed by the judicial authorities.
4. The forensic medical department of the Ministry of Justice played an important role in torture prevention. Alleged torture victims – either complainants or persons referred by prosecutors or the courts – were examined by doctors from the department in order to identify signs of torture. A report was produced which could then be submitted in court, while the doctor who wrote the report could be subjected to cross-examination by the parties concerned. Medical examinations of persons who had suffered sexual assault were conducted in specialized clinics. Correctional and rehabilitation centres were supervised by the courts and regularly inspected by the Independent Commission for Human Rights, civil society organizations and the International Committee of the Red Cross.
5. The several criminal codes in force in the West Bank and Gaza, the Code of Criminal Procedure and a number of other laws, including the General Intelligence Service Act and the Decree-Law on preventive security, all prohibited and criminalized torture. The unification of those various provisions was on the agenda of the legislative harmonization committee. The prohibition of torture was also enshrined in the Palestinian Basic Law, which prohibited the use of statements or confessions obtained under duress of any kind. In the same vein, the Basic Law prohibited medical or scientific experiments without the prior legal consent of the person concerned and it included provisions to prevent the ill-treatment of children, including a ban on corporal punishment by relatives. According to the Basic Law, moreover, criminal and civil actions arising from violations of individual rights and freedoms were not subject to a statute of limitations, and victims were entitled to fair compensation.
6. **Mr. Habalreeh** (State of Palestine) said that the Ministry of the Interior, the Ministry of Justice and the Office of the Public Prosecution all conducted regular and unannounced visits to prisons.
7. **A representative of the State of Palestine** said that all accused persons had certain fundamental rights, including the right to be informed of the charges against them, the right to legal assistance, the right to remain silent and the right not to be subjected to any form of ill-treatment or torture. Prosecutors could, either of their own volition or at the request of an accused person, order an examination of that person's physical and mental health. If, following the examination, torture allegations were upheld, the case was referred to the competent military court. Members of the Office of the Public Prosecutor had been ordered to pay particular attention to complaints of ill-treatment or torture and, beginning in 2020, the Office's human rights unit had begun keeping a register of such complaints. Twenty-eight allegations had so far been registered, of which 12 had been referred to the courts while 16

were still being investigated. All torture investigations were conducted confidentially in order to protect complainants.

8. Under the law, victims of torture were entitled to seek compensation. The court of first instance of Nablus was currently examining two civil cases – No. 757/2015 and No. 506/2020 – in which plaintiffs were seeking monetary compensation for torture they had suffered at the hands of the police. The human rights unit of the Office of the Public Prosecutor was also mandated to receive complaints about police misconduct. Officers who detained persons unlawfully or who failed to implement a court order to release a detainee were committing an offence under the Criminal Code and the Basic Law and could face penalties of imprisonment or dismissal.

9. All places of detention were inspected by the Office of the Public Prosecution on a monthly basis using a standardized protocol that was in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The process had been facilitated by the recent adoption of a computerized system. Any complaints received from prisoners during the course of the inspections were referred immediately to the human rights unit. In urgent cases, for example where a person was apprehended in flagrante delicto or where evidence might be tainted or lost, police and prosecutors could act immediately to interrogate an accused person. The courts retained oversight over such cases and the accused person's right to a lawyer was not affected.

10. **A representative of the State of Palestine** said that the death penalty was not applied in the State of Palestine. No sentence of death handed down by a court could be carried out without the approval of the President and, even before Palestine had acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the President had never upheld a death sentence. Moreover, the Supreme Court of Justice had recently overturned a death sentence handed down by the courts against a person convicted of murder, on the grounds that such a sentence was unconstitutional under article 15 of the Basic Law.

11. Under the Code of Criminal Procedure, persons could be held in police custody for up to 24 hours following which they had to be either released or brought before a prosecutor, who could prolong the detention for an additional 48 hours. Any further extension of detention had to be ordered by the courts. Accused persons could submit a request for release before the expiry of the mandated period, and the courts were obliged to consider such requests in the light of the progress of the investigations.

12. Under the law, presidents of courts of first instance and appeal had the right to visit correctional and rehabilitation centres. As part of the Sawasya II programme to support the rule of law, run jointly with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF), the Supreme Judicial Council had created specialized judicial bodies to deal with gender-related issues. In that connection, special chambers had been set up at the court of first instance of Nablus with specially assigned judges to hear cases involving violence against women.

13. **A representative of the State of Palestine** said that plans had been drawn up to establish a new correctional and rehabilitation facility in Hebron, capable of holding 5,000 inmates. While \$34 million in funding from the United States of America had been earmarked for the project, in 2017 the funding had been cut for political reasons. Efforts were under way to renegotiate the funding with the United States.

14. A correctional and rehabilitation facility had been constructed in Jenin with financial and operational support from the United Nations. The facility, which had been built to the highest international standards, could accommodate 250 prisoners. Israel was blocking the electricity supply to the site, however; the Government was working to resolve the situation, but a solution had yet to be found.

15. The detention facility in Jericho, which was designed to the highest international standards in cooperation with the International Committee of the Red Cross, was under the administrative management of the Ministry of the Interior and the oversight of the Office of the Public Prosecutor, the Supreme Judicial Council and the Ministry of Justice. The facility

covered 2,000 m², including four investigation offices, three interrogation rooms, 19 solitary confinement cells and a recreational area. All cells had a toilet and adequate ventilation and sunlight. Staff and inmates received meals of the same quality and quantity. More than 50 inmates had been relocated to the facility since the start of 2022, all of whom were being held on serious offences such as trading and manufacturing weapons, participating in riots and injuring members of the security forces. Inmates were permitted to call their families twice a week and to receive weekly visits. They had constant access to their lawyers and to round-the-clock medical care. Detained persons were permitted to travel to hospital for treatment. All release orders from the courts were implemented immediately.

16. Five non-governmental organizations (NGOs) conducted surprise visits to the facility every two months. In 2021, representatives of the British Consulate General, the European Union and the Independent Human Rights Commission had conducted a visit to the facility, during which they had noted an improvement in conditions and a reduction in complaints. Work was ongoing to further improve conditions at the facility.

17. **Mr. Habalreeh** (State of Palestine) said that all recommendations and views provided by human rights organizations and international organizations regarding the national preventive mechanism would be taken into account.

18. **A representative of the State of Palestine** said that steps were being taken to align domestic law with the Convention and the Optional Protocol thereto, both of which had been published in the Official Gazette and distributed in digital and paper form to the security forces. Training workshops on implementing the Convention and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) were held, and a training package on human rights, including on torture prevention, freedom of expression and peaceful association and the rights of prisoners, had been prepared for use by the security forces. A team had been trained to promote human rights culture among the security forces, and a national programme had been developed to encourage integrity and transparency among the security forces. A team had been appointed to oversee implementation of human rights obligations and the rule of law within the Ministry of Interior and the security forces as part of a strategic institutional plan for gathering data, developing recommendations for improving the legislative and institutional security structure and ensuring that members of the security forces received training in line with the international instruments to which the State of Palestine had acceded.

19. The national preventive mechanism had been established in accordance with the guidelines on national preventive mechanisms (CAT/OP/12/5) and the Paris Principles. A participatory approach had been adopted, taking into account international best practices and the views of civil society and international organizations. A study of the legislative and supervisory framework in the State of Palestine had been conducted to ensure that the mechanism would play a significant role. The mechanism had been established pursuant to a decree that guaranteed its financial, operational and administrative independence and included a definition of torture in line with the Convention. The Ministry continued to consider all recommendations and views from civil society regarding the mechanism. The members of the mechanism were appointed by the Council of Ministers, taking into account the views of relevant stakeholders. Unfortunately, however, Israel had blocked a visit from the Subcommittee on Prevention of Torture in 2019, however, and was preventing Palestinian organizations from operating in Jerusalem.

20. Freedom of opinion and expression was protected by law. Regular peaceful protests were held with the written approval of the local authorities and the Director General of Police, and the police took steps to protect the rights of protesters and other citizens alike. The Government established national commissions to investigate violent incidents and ensure that the security forces upheld the principles of necessity and proportionality in the use of force and firearms. Security officers against whom complaints were lodged could be subject to disciplinary measures or sent before the military courts. All citizens, including human rights defenders, were protected without discrimination.

21. In collaboration with the United Nations Educational, Scientific and Cultural Organization, the Government had developed intensive training on protecting journalists and a guide on the rights and obligations of journalists in the field. All violations by security

officers were dealt with immediately. The trade union of journalists had published a code of ethics. The Government took account of all recommendations from civil society in that area.

22. **A representative of the State of Palestine** said that, while the Egyptian and Jordanian legislation in force in the State of Palestine did not expressly define or criminalize torture, all aspects of the crime of torture were criminalized individually, albeit sometimes only as less serious offences. Persons who committed torture that led to death or permanent injury could face life imprisonment. The Palestinian Military Code of Criminal Procedure of 1979 provided for harsher penalties for torture offences than the Jordanian Code of Criminal Procedure and allowed for both criminal penalties and disciplinary action to be applied. The Anti-Corruption Act covered crimes against personal freedoms, such as abuse of power and the failure to fulfil one's duties, and provided for suitably harsh penalties.

23. A legal team had been established to develop a Palestinian Criminal Code. The draft code contained a clear definition of physical and psychological torture and of inhumane treatment, both of which were considered serious offences. The draft was currently undergoing its final reading. Steps were being taken to harmonize the relevant legislation in order to create a unified legislative system.

24. The Palestinian Basic Law provided that there was no statute of limitations for the crime of torture. The law did not explicitly prohibit the President from pardoning torture offences, but in practice no such pardons were granted.

25. Administrative detention was permitted, but only where absolutely necessary to protect lives. Steps were being taken to eliminate its use.

26. A record of all complaints of abuse of power by the military was maintained, to which the public had access. All complaints were dealt with properly, and there was no impunity for the abuse of power.

27. With regard to extradition, the State of Palestine was aware of the importance of international cooperation in combating crime. It had acceded to several relevant international instruments, which it applied on the basis of double criminality and where no political precedent existed. Offenders of any nationality who were arrested in the State of Palestine could be prosecuted under international law. The State of Palestine had also joined the International Criminal Court, which reflected its willingness to prosecute all torture offences. With regard to the transport of prisoners, he pointed out that the State's borders were entirely under the control of the occupying Power.

28. **A representative of the State of Palestine** said that efforts were being made to harmonize national legislation on correctional and rehabilitation facilities with international law. The international community was the main financial backer for the development of correctional and rehabilitation facilities in the State of Palestine; however, for the past seven years, such support had not been provided.

29. An operational guide on health-care provision in correctional and rehabilitation facilities had been developed. Studies carried out in collaboration with national and international stakeholders confirmed that the facilities operated in accordance with international and domestic law. The admittance, release and transport of inmates was subject to inspection and controls in line with international standards. Statistics on detentions and on the number of visits conducted by civil society and international organizations were available.

30. **A representative of the State of Palestine** said that the proportion of the population with mental health needs was far higher than the global average owing to the acts of violence committed by Israel. The Government was making efforts to develop the necessary mental health services. Thus far, 14 centres providing free mental health care had been established in the West Bank, and six in the Gaza Strip. Only one mental health hospital capable of admitting patients was available, however. A bill on mental health care was being drafted. Further capacity-building relied on the contributions of international partners.

31. The Ministry of Health issued regular internal reports on cases of patient mistreatment. Complaints were examined by a committee and handled as prescribed by the law.

32. **A representative of Palestine** said that the bill on family protection criminalized all forms of violence, including sexual violence. The first version of the bill had been drafted in 2008 prior to the accession by the State of Palestine to international treaties. A large number of comments on the draft had been received from governmental bodies, civil society associations and NGOs, and they were currently being studied by a ministerial committee composed of the Minister for Social Development, the Minister of Justice and the Minister for Women's Affairs. The bill would hopefully be enacted in the near future. With regard to honour crimes, the mitigating circumstances provided for in the Jordanian Criminal Code No. 16 of 1960 had been revoked in 2016 so that perpetrators of such crimes against women could no longer benefit from such provisions. Statistics would be provided on criminal proceedings relating to family protection conducted in 2021 as well as statistics on honour killings and all other offences that fell into that category.

33. **Mr. Habalreeh** (State of Palestine) said that it was essential to analyse the gap between the current situation in the State of Palestine and best practices at all levels. The Committee's guidance and recommendations would therefore be greatly appreciated by the Palestinian authorities, and regular meetings would be held to promote the alignment of all laws with international legislation.

34. **Mr. Touzé** (Country Rapporteur) said that he was aware of the challenges facing the State of Palestine when it sought to harmonize diverse sources of legislation inherited from the past with international legal standards. While torture seemed to be partially defined in current domestic legislation, the definition should be reinforced and benefit from further harmonization work. The legislation of the State of Palestine was not applied in the Gaza Strip, in particular the moratorium on capital punishment and the legal provisions applicable to honour crimes. The Committee was therefore interested in hearing about possible steps to address the situation.

35. The Committee would be grateful to receive copies of the various bills aimed at amending criminal legislation that were being considered, particularly the draft legislation that would set out a definition of torture. He would also welcome further information concerning proposed amendments to the legislation governing administrative detention. It would be useful to know whether there was a timeline for enactment of the amended legislation.

36. He wished to know whether judges who ascertained that a defendant's confession had been obtained under duress had ordered investigations into such conduct and whether the confessions had been declared null and void. The Committee had received many reports concerning the repression of demonstrations on religious or political grounds. He would appreciate a response to such allegations.

37. Judicial proceedings were under way in the State of Palestine concerning the death of Nizar Banat, who had been brutally assaulted in Hebron by the Palestinian security forces on 24 June 2021. The Committee had been informed that his family had been subjected to reprisals. The 14 officers responsible for his death had been tried in the Ramallah military court and found guilty of torture, beatings and further criminal acts entailing a sentence ranging from 15 years' to life imprisonment. The Committee had been informed, however, that the person who had supervised the operation had escaped investigation. In addition, the 14 officers had not been suspended from active duty and had been granted temporary release under the sanitary protection measures implemented during the COVID-19 pandemic.

38. He wished to thank the delegation for the figures provided on complaints from persons who had been tortured or subjected to ill-treatment. However, he failed to understand why complaints were referred solely to the military courts and the investigations were confidential. While monetary compensation had been provided in two cases, he pointed out that article 14 of the Convention required that victims should be provided with the means for full rehabilitation.

39. He wished to know whether the Office of the Public Prosecutor was responsible for monitoring the compliance of detention facilities with the orders resulting from inspections. He would welcome information on the proportion of cases in which judges ordered pretrial detention in order to assess whether it was a systematic practice. He would also appreciate data concerning the proportion of defendants and inmates in detention facilities.

40. The provisions of the bill on the establishment of a national preventive mechanism concerning appointments and the legal framework governing activities could be improved. He hoped that a visit by members of the Subcommittee would take place in the near future.

41. He wished to know whether the diverse training courses offered to law enforcement officers and other public officials were conducted by internal bodies, civil society institutions, or organizations such as the International Committee of the Red Cross or United Nations entities. The principle that criminal offences and penalties must be only prescribed by law was not fully implemented because of the variety and complexity of the sources of law in the State of Palestine. Lastly, the Committee would welcome a copy of the study on correctional and rehabilitation centres mentioned during the discussion and any relevant statistical data.

42. **Ms. Maeda** (Country Rapporteur) said that, according to article 111 of the Palestinian Basic Law, no restrictions could be imposed on fundamental rights and freedoms except where necessary to achieve the aim stated in a decree declaring a state of emergency. She wished to know what criteria or standards were applied by the court that ruled on the necessity and proportionality of such restrictions.

43. Noting that political asylum-seekers were protected against extradition to a country where they would be subjected to torture, she wondered which body decided whether a person should be classified as a political asylum-seeker.

44. As the situation in the State of Palestine was highly complicated in terms of the legal framework, it would be very helpful if the treaty bodies had access to a common core document outlining the structure of the State. According to the reporting guidelines (HRI/GEN/2/Rev.6), States preparing a common core document for the first time that had already submitted reports to the treaty bodies might wish to integrate into the common core document information contained in those reports insofar as it remained current. She wished to know whether the State party planned to produce such a document in the near future.

45. The Committee encouraged the State party to accelerate the process of enacting the bill on family protection.

The meeting was suspended at 5 p.m. and resumed at 5.15 p.m.

46. **Mr. Habalreeh** (State of Palestine) said that the Palestinian authorities had established at the outset a transparent and impartial commission of inquiry to investigate the case of Nizar Banat and monitor the legal proceedings in the military court. It was essential to ascertain exactly what had occurred during the incident that had led to his death. Evidence had been obtained from the military judiciary and other legal sources. While he respected the information obtained by the Committee from various sources, it was also important to take into account the information provided by the military judiciary.

47. The Optional Protocol required States parties to establish a national preventive mechanism that was consistent with international standards. The Committee's observations would therefore be duly taken into account, since the fundamental goal was to prevent all forms of torture. The Government had engaged in an open debate on the subject with local and international stakeholders. If the mechanism was based on the political position of the Palestinian leadership concerning the incrimination of torture, security officers and police officers would need to greatly increase their capacity to address the issue seriously. Having taken all stakeholders' comments into account, the authorities had decided to refrain from inaugurating the mechanism until unanimity had been achieved on a mechanism that was consistent with national legislation and international standards.

48. **A representative of the State of Palestine** said that the accession of the State of Palestine to international treaties had opened the door for the establishment of committees tasked with examining existing laws and drafting new ones in line with international law. The Committee's message about the need to adopt a specific law on torture had been heard, and efforts to that end would be a top priority.

49. One of the main challenges facing the State of Palestine in terms of legislation – on which the Committee's advice would be very useful – was the overhaul of the Criminal Code and the question of whether to have separate laws for distinct offences and penalties or group

them all under a single Criminal Code. Progress was being made on a new Criminal Code, but there was some concern about unwittingly omitting some issues, such as discrimination, that were not a problem in the State of Palestine but in relation to which it had undertaken international obligations. The absence of a constitution was also a hurdle, as was the lack of a legislative body owing to political division; the Palestinian National Council did not so much legislate as issue general declarations on the future of the Palestinian people.

50. The complexities of the situation, notably the ban on entry into Gaza imposed on Palestinian officials by the Israeli colonial occupation authorities, did not absolve the officials from their responsibilities with regard to all parts of the territory. Accordingly, they relied on various international partners, such as United Nations agencies and the International Committee of the Red Cross, to maintain ties with Gaza and liaise with Hamas. The Committee's advice and remarks were very welcome as the country carried on its liberation struggle while building a State and a legal system.

51. **A representative of the State of Palestine** said that a first draft of the common core document had, in accordance with established practice, been submitted to partners and civil society organizations for comment. The draft included information contained in the reports of the State of Palestine to the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination. The hope was that the common core document would be finalized shortly.

52. **A representative of the State of Palestine** said that the Constitutional Court had conferred on military courts the competence to try cases against police officers. The Office of the Public Prosecutor received and investigated complaints of torture committed by law enforcement personnel, which were then referred to the military courts for prosecution. When law enforcement personnel were found guilty of torture, any evidence obtained by them, including confessions, was dismissed. An agreement was being worked out between the Office and the military justice system on an integrated procedure for tracking and recording cases of torture, from the moment they were opened to their conclusion. The Treatment and Rehabilitation Centre for Victims of Torture, in partnership with government entities, provided victims with medicines and treatment.

53. A number of entities had the authority to conduct visits to places of detention and rehabilitation; police custody facilities, however, were inspected by the Office of the Public Prosecutor. Inspection reports were drawn up, and any problems observed relating to conditions of detention were raised with the competent authorities. The issue of insufficient blankets and heating in the winter had been brought to the attention of the Ministry of the Interior and the Police Commissioner. In 2020, the Office had conducted only nine visits because of the pandemic. However, it had been able to carry out 35 visits in 2021 and 61 so far in 2022.

54. **A representative of the State of Palestine** said that the Government had set up a number of committees to examine existing laws, including a committee under the Ministry of the Interior to deal with security matters and a committee to harmonize domestic law with international instruments to which the State of Palestine was a party. Their strong relationship with civil society organizations was instrumental to their tasks. There was no law on refugees simply because no one was interested in claiming asylum in a place that was under the yoke of occupation.

55. When an allegation of torture was made, the alleged victim underwent a medical examination and, if signs of torture were detected, an investigation was launched. Work was under way, in collaboration with the European Union Agency for Law Enforcement Cooperation and the Office of the United Nations High Commissioner for Human Rights, on a bill that sought to guarantee persons who were detained access to legal representation from the moment of arrest, which was the first such legislation in the Middle East. The actions of the military were subject to internal oversight and to oversight by the executive and judicial branches but, unfortunately, not by the legislative branch.

56. Regarding the case of Nizar Banat, the victims' lawyer, as well as witnesses, had commended those responsible for leading the proceedings in the case for the respectful, professional, independent and transparent manner in which the investigation into his death had been conducted. The 14 defendants in the case, who had been released on bail but were

attending the trial, were entitled to certain legal safeguards, and the proceedings were taking place in the presence of representatives of international bodies and civil society organizations to attest to their impartiality and transparency. The conflicts with the law that Mr. Banat's two relatives had encountered were not related to the case but, rather, had resulted from complaints lodged against them by private individuals in connection with other matters.

57. **A representative of the State of Palestine** said that she urged the Committee to exert pressure on Israel to grant unfettered access to the State of Palestine, not only to the Subcommittee but also to all the special procedure mandate holders. The Government collaborated with regional and international bodies and NGOs to hold train-the-trainer sessions on human rights for law enforcement personnel. In addition, the Ministry of the Interior had a memorandum of understanding with Al-Istiqlal University to integrate human rights into the basic training of police officers. There were plans to hold an international conference by the end of 2022 to discuss the commitments of the State of Palestine under the Convention and its Optional Protocol, the scope of the State's jurisdiction in such matters and how to proceed with the establishment of the national mechanism for the prevention of torture.

58. **A representative of the State of Palestine** said that the decision to extend any form of detention, including pretrial detention, could only be taken by a judge in accordance with the circumstances of the case and the nature of the offence, and suspects were permitted to present evidence to secure their release. The Supreme Council of the Judiciary was examining the issue of pretrial detention and its extension.

59. **The Chair** commended the delegation on the quality of the dialogue with the Committee and expressed the sincere hope that when the State party submitted its next report, the people and the State of Palestine would be living in far more favourable conditions and under the full protection of international law.

60. **Mr. Habalreeh** (State of Palestine) said he hoped that the delegation's replies had demonstrated the importance that the State of Palestine attached to complying with its international commitments and to being a key member of the international community. Torture was anathema in Palestinian culture and could only engender hatred and violence among fellow citizens and therefore would not be allowed to occur. Despite the exceptional conditions in which the Palestinian State and people lived as a consequence of the occupation, the State would continue to hold itself accountable for its performance on human rights and therefore looked forward to receiving the Committee's concluding observations.

The meeting rose at 6.05 p.m.