Human Rights Committee
126th session

Summary record of the first part (public)* of the 3639th meeting
Held at the Palais Wilson, Geneva, on Monday, 22 July 2019, at 3 p.m.

Chair: Mr. Fathalla

Contents

Follow-up to concluding observations on State party reports

Draft report of the Special Rapporteur for follow-up to concluding observations

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.3639/Add.1.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.
The public part of the meeting was called to order at 3 p.m.

Follow-up to concluding observations on State party reports

Draft report of the Special Rapporteur for follow-up to concluding observations

1. **The Chair**, noting that document CCPR/C/126/R.1 contained a summary of the Committee’s assessment criteria for follow-up to concluding observations, said that, in response to a recommendation from the Bureau, the Committee had decided at a previous session that the Special Rapporteur for follow-up to concluding observations should prepare a separate addendum for each State party. The draft report contained five addenda on follow-up to the concluding observations of Argentina (CCPR/C/126/R.1/Add.1), Ecuador (CCPR/C/126/R.1/Add.2), Burkina Faso (CCPR/C/126/R.1/Add.3), Namibia (CCPR/C/126/R.1/Add.4) and Turkmenistan (CCPR/C/126/R.1/Add.5). Ms. Sancin would be presenting the report on behalf of Ms. Kran, the Special Rapporteur, who was unable to attend the meeting.

Argentina

2. **Ms. Sancin**, drawing attention to the Special Rapporteur’s proposed evaluation of the follow-up to the Committee’s concluding observations on the fifth periodic report of Argentina (CCPR/C/ARG/CO/5), said that for paragraph 12, which addressed the issue of abortion, she proposed assigning an A grade for follow-up given to the Committee’s request to review the case of Belén, since Belén had been released and acquitted. For all other elements contained in paragraph 12, she proposed giving a C grade. No specific information had been provided on measures taken to revise abortion legislation, ensure that women did not have to resort to clandestine abortions, or provide training on the use of contraceptives and the right to sexual and reproductive health.

3. **Mr. Shany** said that some important developments had taken place in the State party more recently: a bill on legalizing abortion tabled in 2018 had passed the lower house of deputies, but had been rejected by the senate, and a new bill had been introduced in 2019, although its fate remained uncertain. Still, since those developments had occurred after the follow-up reply had been received, he would support the Special Rapporteur’s proposal to give a C.

4. **The Chair** said he took it that the Committee agreed with the Special Rapporteur’s appraisal of the follow-up given by the State party to paragraph 12, assigning it an A for its response in regard to the Belén case, and a C for all other elements of the paragraph.

5. **It was so decided.**

6. **Ms. Sancin** said that paragraph 14 contained multiple recommendations regarding torture and ill-treatment. The Special Rapporteur recommended issuing a C grade for the State party’s follow-up on subparagraph (a), since no information had been provided on steps taken to ensure that allegations of torture and ill-treatment were investigated promptly, thoroughly and independently and perpetrators were brought to justice. A grade C was also warranted for the reply to subparagraph (d), as the State party had failed to provide information on the implementation of a unified registration system for acts and victims of torture. Since no information had been provided either on specific action taken to establish the national preventive mechanism in all regions of the country, subparagraph (e) equally deserved a C grade. The State party’s reply to subparagraphs (b) and (c) was deserving of a B, however, since victims of crime were provided with some support and medical professionals received ongoing training in forensic examination.

7. **Ms. Tigroudja** said that she would be somewhat reluctant to give the State party a B for its reply to subparagraph (b) in the light of the information provided by other sources, which suggested that victims rarely complained, for fear of reprisals, while the judicial response to allegations of torture and ill-treatment was mostly inadequate. Did a situation where victims struggled to gain access to justice really merit a B grade evaluation?
8. **Ms. Sancin** said that the Dr. Fernando Ulloa Centre for Victims of Human Rights Violations, established in 2011, had delivered care to 391 patients in 2017. That special effort had been borne in mind when awarding the B grade.

9. **The Chair** said that he took it that the Committee wished to retain the original grade proposed by the Special Rapporteur.

10. **It was so decided.**

11. **Ms. Sancin,** turning to paragraph 24, on conditions of detention, said that the Special Rapporteur recommended giving a B grade, since the State party had created additional prison capacities, and planned to expand capacities further, while it had expanded the use of electronic monitoring devices and taken steps to expedite legal proceedings to reduce overcrowding. Even though the Ombudsman had reported that the prison population had increased, and that conditions in three of the country’s maximum-security units were decidedly substandard, the B grading appeared appropriate.

12. **Mr. Santos Pais** said that, although he did not wish to question the proposed grade, he thought the Committee should request the State party to include information in its sixth periodic report on the plan to double prison capacities, in order to encourage the State to re-evaluate its policy.

13. **The Chair** said that he took it that the Committee approved of the Special Rapporteur’s proposal to give a C for the State party’s follow-up to paragraph 12, with an A assigned for its response in the Belén case. He also took it that the Committee agreed with the proposal to give a C for the follow-up to subparagraphs 14 (a), (d) and (e), a C for paragraphs 14 (b) and (c), and a B for the follow-up to paragraph 24.

14. **It was so decided.**

**Ecuador**

15. **Ms. Sancin** said that Ecuador should receive a C for its response to the Committee’s recommendations in paragraph 20 of the concluding observations on the sixth periodic report (CCPR/C/ECU/CO/6), which concerned the Truth Commission. Information on action taken to expedite judicial investigations into human rights violations and on the criteria used to select the cases to be investigated was scant, and more information was needed on the number of victims workshops held by the Attorney General’s Office and the progress made in guaranteeing victims access to full reparations. According to information provided by non-governmental organizations (NGOs), no progress had been made with the prosecution of those responsible for the violations documented in the report of the Truth Commission.

16. **Ms. Pazartzis** said that in the light of the information provided by the State party, she struggled to understand the rationale behind assigning a C. The State party had initiated proceedings against perpetrators and was working with victims, both of which were clear steps towards implementing the Committee’s recommendations and thus deserving of a B grade. She was also uncomfortable with some of the elements contained in the evaluation, as the questions seemed to exceed the scope of the concluding observations.

17. **Mr. Shany** said that he, too, felt that a C grade did not reflect the progress made, however modest. The State party had taken a number of measures, including the opening of the Plaza de la Memoria, after the Committee had issued its concluding observations.

18. **Ms. Sancin** said that the documented cases of crimes against humanity and serious human rights violations by far outnumbered the proceedings instituted to date. Also, only in 6 out of 189 documented cases requiring reparations, compensation had been awarded. In the light of that discrepancy, the Special Rapporteur had found a C grade the most appropriate. She would, however, not object to changing the grade to a B, if members saw fit.

19. **Mr. Zyberi** said that the lack of progress made in the prosecution of those responsible for the violations documented in the report of the Truth Commission and the sluggish appeal process reported by NGOs made a C grade seem more appropriate.
20. **Mr. Shany** said that it was not the Committee’s task to grade the quality of implementation, but just to evaluate whether any action had been taken towards implementing the Committee’s recommendations. Where action had been taken, the appropriate grade was B. While the information furnished by civil society organizations was certainly valuable for the Committee’s assessment of periodic reports, the grading system concerned the measures reported by the State party. It had to be borne in mind that, at the time the concluding observations in question had been issued, States parties had only been given one year for follow-up, which limited the extent of progress that could reasonably be expected. On the basis of the criteria habitually applied by the Committee, a B would be fitting.

21. **The Chair** said that he took it that the Committee wished to change the grade from the proposed C to a B.

22. *It was so decided.*

23. **Ms. Sancin** said that the Special Rapporteur had recommended a C grade for the State party’s follow-up in regard to paragraph 24, which concerned conditions of detention and violence in prison. In its reply, the State party had reported that it had created 16,000 new places in social rehabilitation centres to reduce overcrowding; introduced a new prison management model to reduce recidivism; established protocols for prison visits; introduced electronic monitoring devices; provided human rights training for prison officials; and established a Treatment and Life Plan Office to address violence.

24. **Ms. Pazartzis** said that, as with the previous paragraph, she failed to see how a C grade could be preferred. The measures described by the State party qualified as follow-up action, particularly in the light of the one-year time frame. Also, the information requested, especially regarding training, seemed to go beyond the scope of the Committee’s initial recommendations.

25. **Ms. Sancin** said that, to her mind, the additional information requested from the State party in the evaluation fell squarely within the scope of paragraph 24, which contained recommendations to improve conditions of detention and eliminate overcrowding.

26. **The Chair** said that the State party itself, in its replies, had referred to training for prison officials.

27. **Ms. Tigroudja** said that even if training was not mentioned specifically in the concluding observations, as a measure to improve conditions of detention it was certainly relevant, and the grade proposed by the Special Rapporteur seemed justified.

28. **Mr. Shany** said that, while he had no qualms about the current wording of the evaluation, he shared Ms. Pazartzis’ sentiments regarding the grade. The effectiveness of the measures taken would only be manifest over time, but the State party had certainly made an attempt at follow-up.

29. **Ms. Sancin** said that, according to NGO reports, the prison population had increased, rather than diminished; detention was the norm, and the human rights situation of detainees had deteriorated further with the introduction of the new prison management model. Those reports cast considerable doubt on the positive effect of the measures taken by the State party. Still, if the Committee felt that a B-rating would be more appropriate, she would not insist.

30. **Mr. Heyns** said that he, too, would prefer a B. The State party had taken meaningful measures, while some of the information provided by NGOs was unclear.

31. **Mr. Shany** said that the fact that some of the measures had both positive and negative effects did not justify ignoring them altogether and opting for a C.

32. **The Chair** said that he took it that the Committee wished to assign the State party’s follow-up to paragraph 24 a grade B, instead of the C proposed by the Special Rapporteur.

33. *It was so decided.*

34. **Ms. Sancin** said that the rapporteur recommended giving a grade B for the State party’s follow-up to paragraph 28 concerning freedom of expression and peaceful assembly.
In order to implement the Committee’s recommendations, the State party had provided comprehensive in-service human rights training for police officers, issued regulations on the use of force, and enacted the 2017 Organic Code, which stipulated that the security forces must prioritize the use of preventive and deterrent activities and procedures over the use of force. As a result, the number of recorded cases of excessive use of force had dropped from 74 in 2016 to 29 in 2017, although NGOs had criticized the Code for failing to meet international standards.

35. **The Chair** said that he took it that the Committee wished to give the State party a B for its follow-up to all three paragraphs identified in the concluding observations, namely 20, 24 and 28.

36. *It was so decided.*

**Burkina Faso**

37. **Ms. Sancin** said that paragraph 16 of the concluding observations on the second periodic report of Burkina Faso (CCPR/C/BFA/CO/1 and CCPR/C/BFA/CO/1/Add.1) contained a series of recommendations concerning equality between men and women and practices harmful to women. The Special Rapporteur was of the view that the State party’s reply to subparagraphs 16 (a), (b) and (c) should receive a C, as it had merely reiterated the information on the Family Code provided in the replies to the list of issues (CCPR/C/BFA/1/Add.1, para.13), which was out of date, provided unsatisfactory information on plans to abolish polygamy, and facilitated no information at all in regard to subparagraphs (b) and (c).

38. The rapporteur recommended a B grade for the follow-up given to subparagraphs (d) and (e), which consisted of awareness-raising and new strategies to eradicate female genital mutilation, although relevant data for rural and urban areas had yet to be supplied. More specific information was also needed on the National Strategic Plan and its effectiveness. Clarification would be sought in regard to the continuation of awareness-raising activities aimed at combating traditional practices that were harmful to women, their tangible outcomes, and the measures taken to ensure the effective application of legal provisions guaranteeing equality in inheritance and access to land.

39. **Mr. Koita** said that, while he agreed with the B-grading for subparagraphs (d) and (e), assigning a C for subparagraphs (a), (b) and (c) appeared overly harsh. Given that NGOs reported that a new definition of marriage that took into account religious and traditional marriages had been incorporated into legislation and protection committees and mobile hearings had been set up in local communities to stem abuses against women, a C grade seemed inappropriate. Moreover, by tabling a bill that contained provisions on polygamy, the State party had brought a previously taboo issue into the public debate. A B grading would convey recognition of those efforts and encourage the State party to continue in that direction.

40. **Ms. Sancin** pointed out that the State party itself had provided no information at all.

41. **The Chair** said that, in the light of that circumstance, the Committee might wish to retain the Special Rapporteur’s original C proposal.

42. *It was so decided.*

43. **Ms. Sancin** said that paragraph 28 concerned mob justice and vigilante groups. The Special Rapporteur recommended giving the State party a B for its reply to subparagraph (a). The Evaluation recognized the steps taken to reinforce the presence of national security and defence forces in order to prevent vigilante groups from performing law-enforcement tasks and to criminalize activities related to mob justice. The proposed rating for subparagraphs (b) and (c) was C, since little information had been provided on the investigation, prosecution and sentencing of alleged perpetrators of human rights violations and on campaigns to raise awareness of the illegality of summary and mob justice.

44. **Mr. Koita** said that, again, a C grading would send too harsh a message to the State party. Its actions needed to be evaluated in a context where the absence of the State security apparatus had led local groups to take the fight against terrorism into their own hands, and
where the State was currently trying to re-establish the rule of law, with support from international partners. The first results of those efforts were evident in the increased presence of State security agents and the judicial proceedings brought. A State that embarked on such a path in spite of the challenges, should be encouraged to continue and a B grade would adequately serve that purpose.

45. **Ms. Sancin** said that the C grade had been suggested because the State had failed to provide information on judicial proceedings and awareness-campaigns, simply asserting that they existed.

46. **Ms. Tigroudja** said that, taking into consideration the country situation alluded to by Mr. Koita and the State party’s apparent willingness to take action, a B grade seemed appropriate even if the information provided was incomplete.

47. **Mr. Shany** said that, in the case in question, the information supplied by NGOs reconfirmed that the State party had taken action. Issuing a C grade solely because the information provided by the State party was unclear appeared too harsh, given the circumstance. He agreed with Mr. Koita that the State party should be encouraged, and a B grade would convey the right message.

48. **The Chair** said that he took it that the Committee wished to change the grade from the C proposed by the Special Rapporteur to B.

49. *It was so decided.*

50. **Ms. Sancin**, drawing attention to paragraph 36, which concerned human trafficking and child labour, said that the Special Rapporteur had proposed an A grade for the State party’s follow-up on subparagraph (a), in acknowledgement of the comprehensive awareness-raising activities conducted to combat the exploitation of children. The information provided in relation to subparagraph (b) was rather scant and the Special Rapporteur had proposed allocating a B grade. For subparagraph (c), the Special Rapporteur recommended a C rating, as no legal steps had been taken to amend Act No. 011-2014/AN to ensure that the penalties imposed for sex offences were commensurate with the seriousness of the offence. Grade C was also proposed for subparagraph (d), given the lack of data.

51. **The Chair** said he took it that the Committee approved the rapporteur’s proposal to give a C for the State party’s follow-up to subparagraphs 16 (a), (b) and (c) and a B for the follow-up to subparagraphs (d) and (e). He also took it that the Committee agreed with the proposal to assign a B for subparagraph 28 (a), but wished to change the grade for subparagraphs 28 (b) and (c) from the proposed C to a B. He further took it that the Committee agreed with the proposal to rate subparagraph 36 (a) with an A, subparagraph 36 (b) with a B and subparagraphs (c) and (d) with a C.

52. *It was so decided.*

**Namibia**

53. **Ms. Sancin**, drawing the attention of Committee members to the Special Rapporteur’s proposed evaluation of the follow-up to the Committee’s concluding observations on the second periodic report of Namibia (CCPR/C/NAM/CO/2), said that, with regard to paragraph 10, on non-discrimination, the Special Rapporteur proposed assigning an E grade for the State party’s responses to subparagraphs (a), (b) and (c) and a C grade for its response to subparagraph (d). The E grade reflected the fact that, in its replies, the State party had denied the existence of discriminatory laws or practices, including against lesbian, gay, bisexual and transgender (LGBT) persons; it had failed to supply updated information on laws governing intestate succession or prohibiting hate crimes, and had neglected to provide any information on the measures taken towards abolishing the crime of sodomy.

54. In relation to paragraph 22, which concerned the prohibition of torture and ill-treatment, the Special Rapporteur recommended awarding a B grade for the State party’s responses to the recommendations contained in subparagraphs (a) and (b). No information had been received in respect of subparagraph (c), on ensuring that sex workers could report
crimes without risking prosecution for their occupation, for which reason the Special Rapporteur was proposing a C grade. Lastly, with regard to paragraph 24 on torture, violence, including sexual violence against women, and the right to life, the Special Rapporteur recommended giving a B grade for the State party’s responses to subparagraph (e), since certain relevant legislation had been adopted, and a C for the remaining five subparagraphs, in view of the fact that no new information had been provided.

55. **Mr. Shany**, referring to the Special Rapporteur’s proposed E grading for the replies to paragraph 10 (a), (b) and (c), said he recalled that the State party had denied the existence of any discrimination during the dialogue and was seemingly continuing with that line of argument in its follow-up report (CCPR/C/NAM/CO/2/Add.1). That having been said, E grades were usually reserved for States parties that had rejected the Committee’s recommendations or had taken steps that were contrary to them.

56. **Ms. Tigroudja** said she agreed that an E grade seemed unduly harsh. While the State party had denied the existence of discrimination, it had nevertheless taken some action, through its National Human Rights Action Plan for 2015–2019, to affirm the rights of LGBT persons, combat discrimination, carry out awareness-raising activities and undertake reforms to give effect to international and regional instruments. It seemed to suggest tacit recognition of the existence of a problem, even if the scope of the State party’s replies and the measures it had put in place were unsatisfactory.

57. **Mr. Santos Pais**, supported by **Mr. Koita**, said that he proposed raising the E grade to a C grade to reflect the fact that the State party had provided responses, albeit ones that were less than satisfactory.

58. **Mr. Muhumuza** agreed and said that it would be unfair to assign the Committee’s lowest grade – an E – when the State party was cooperating with the Committee and showing some signs of improvement.

59. **Mr. Zimmermann** said that Committee members seemed to be leaning towards awarding a C overall for the four subparagraphs of paragraph 10. However, a C grade implied that information had been received, whereas for subparagraph (c) none had.

60. **The Chair** said that, in the light of the fact that no information had been provided for paragraph 10 (c), he suggested giving it a D grade, while awarding a C grade for the replies to paragraph 10 (a), (b) and (d).

61. **Ms. Sancin** said that, according to the secretariat, D grades were used only when the State party had failed to provide follow-up report after one or more reminders had been sent by the Committee. However, when a State party provided replies to some but not all aspects of a recommendation, the Committee’s usual practice was to assign an E grade for the subparagraphs for which no information had been provided.

62. **The Chair**, speaking as a member of the Committee, said that an E grade was not appropriate for the reasons already stated by Mr. Shany. However, the State party was not cooperating with the Committee by providing the information requested, for which reason a D grading should be given.

63. **Mr. Shany** said that, in the past, when a State party had provided responses to some parts of a recommendation but not others, the Committee had assigned a D grade to those subparagraphs where information was missing. More recently, however, the Committee had made the decision to apply a D grade only when a State party ignored requests to submit its follow-up report. Where a State party had responded to some subparagraphs but not others, the Committee had decided to give the responses a C grade overall or to state that no information had been received. In the case of Namibia, the Committee should give a C grade for the State party’s replies to paragraph 10 as a whole.

64. **Mr. Heyns**, referring to the Committee’s evaluation of the State party’s response to paragraph 10 (a), said that the Committee seemed to have accepted that some information had indeed been provided on efforts to repeal discriminatory laws, albeit only in relation to intestate succession. According to the State party’s reply, bills repealing intestate succession laws from the apartheid era had been submitted for adoption. The Committee
might therefore consider giving a B grade for the response to that subparagraph, since the State party had taken steps towards implementing part of the recommendation.

65. **Mr. Shany** said that it was not known whether the bills on intestate succession had been drafted before or after the concluding observations had been published. The State party’s reply suggested that they had been in the pipeline for a decade. Without any specific information on that front, a C grade was more appropriate.

66. **Ms. Pazartzis** said that she, too, recalled that the Committee had decided to reserve D grades for States parties that did not provide any follow-up to the Committee’s recommendations. It had also discussed creating a list of those States parties that did not cooperate with the Committee.

67. **Ms. Santana** (Office of the United Nations High Commissioner for Human Rights) said she could confirm that the Committee had recently decided to assign D grades only when a State party did not provide any follow-up report to the Committee, even after reminders had been sent. With regard to the reply to paragraph 10 (a), the State party had failed to provide specific information relating to the status of the bills on intestate succession or on the period that was covered by the 10 years during which it had been conducting research on marriage and inheritance laws.

68. **Mr. Zyberi** said that, in his view, a C grade should be given for the State party’s replies to paragraphs 10 (a), (b) and (d) and a D grade for paragraph 10 (c), because no information had been provided.

69. **Mr. Koita**, referring to the Committee’s assessment criteria for follow-up to concluding observations, said that a C grade was assigned when a response had been received from a State party but the action that had been taken or the information that had been provided was not relevant or did not implement the recommendation and was, thus, unsatisfactory. With that in mind, it was clear that the replies to paragraph 10 as a whole should be given a C grade.

70. **Ms. Sancin** said that she wondered whether it was possible to assign two separate grades for the issues dealt with under paragraph 10 (a). In that way, the State party’s outright denial of the existence of any discriminatory laws would justify an E grade, since it constituted a rejection of the Committee’s recommendation, while the fact that some action had been taken towards repealing intestate succession laws from the apartheid era, even though it did not implement the recommendation made, would warrant a C grade. Regarding paragraph 10 (c), however, she questioned the appropriateness of the C grade proposed by other Committee members, since no information had been received on the action taken by the State party to abolish sodomy laws.

71. **The Chair**, speaking as a member of the Committee, said that it was not possible to assign two separate grades for responses to the issues raised in a single subparagraph.

72. **Mr. Zimmermann** said he noted that the Special Rapporteur had proposed assigning a C grade for the State party’s responses to paragraph 22 (c), for which no information had been provided. For the purposes of consistency, if the Committee assigned a D grade for the lack of information provided in respect of paragraph 10 (c), it should do the same with regard to paragraph 22 (c).

73. **Ms. Pazartzis** said that, in her view, both paragraphs 10 (c) and 22 (c) merited a C grade for the reasons already stated by Mr. Koita. A response had been received from the State party, even if it was unsatisfactory or the information was not relevant.

74. **Mr. Shany** said that, according to the Committee’s assessment criteria, a D grade signified a lack of cooperation with the Committee. It was assigned only when one or more reminders for the State party to submit its follow-up report had drawn no response. To ensure the correct application of its own guidelines, the fact that a follow-up report had been received meant that the Committee could therefore only assign a C grade for subparagraphs where information was missing or no information had been provided.

75. **The Chair** said that the secretariat had confirmed that no such reminders had been sent and he therefore agreed that a D grade could not be given.
76. **Mr. Zyberi** said that he failed to see how a C grade could be awarded when the Committee had no information on which to base an assessment. It might therefore be preferable simply to state that no information had been received rather than to grade those subparagraphs.

77. **Ms. Sancin** said that she was inclined to assign a grading even when information was incomplete or lacking in parts. Stating that no information had been received, rather than giving a grade, might have the effect of encouraging States parties not to provide information.

78. **The Chair** suggested that the Committee should proceed by assigning a C grade for the information provided on paragraph 10 as a whole, including where no information had been provided for paragraph 10 (c). For paragraph 22, he took it that the Committee wished to approve the Special Rapporteur’s recommendation to assign B grades for subparagraphs (a) and (b) and C for subparagraph (c).

79. *It was so decided.*

80. **Mr. Santos Pais**, referring to the Committee’s evaluation of the State party’s responses to paragraph 24, said that he wondered whether the Committee was sure that the education and awareness-raising campaigns with traditional leaders had taken place before the adoption of the concluding observations. It was possible that similar campaigns had subsequently been carried out within the framework of the State party’s National Gender Policy 2010–2020, for which reason it might be appropriate to award a B grade for the information provided on paragraph 24 (a).

81. **Ms. Sancin** said that, for subparagraph (a), no information had been supplied on the activities undertaken as part of the National Gender Policy; for subparagraphs (b) and (d), no information had been provided; for subparagraph (c), information had been received but was not relevant; and, for subparagraph (f), some information had been received but the recommendation had yet to be implemented. For that reason, a C grade seemed the most suitable option for those subparagraphs. As far as subparagraph (e) was concerned, the State party had taken specific legislative measures and the Committee wanted further information on their implementation in practice. For that reason, a B grade was justified.

82. **The Chair** said he took it that the Committee wished to approve the Special Rapporteur’s proposals concerning the grading of the State party’s responses to paragraph 24.

83. *It was so decided.*

**Turkmenistan (CCPR/C/126/R.1/Add.5)**

84. **Ms. Sancin** said that the State party should receive a C grade for its follow-up to the recommendations contained in paragraph 17, on secret detention and enforced disappearances, and paragraph 21, on torture and ill-treatment, of the Committee’s concluding observations to the country’s second periodic report (CCPR/C/TKM/CO/2). Much of the information received had previously been provided to the Committee. No information had been forthcoming on the measures taken to: end the practice of secret detention and enforced disappearance, and investigate and punish the perpetrators of such offences; disclose the fate or whereabouts of forcibly disappeared persons; ensure in practice that coerced evidence obtained through torture was inadmissible in court; provide law-enforcement officials with training on preventing torture; and implement an effective complaints mechanism against torture. In relation to paragraph 23, on the treatment of prisoners, the Special Rapporteur proposed assigning an E grade, since the State party had provided no new information on the measures it had taken, inter alia, to ensure independent monitoring of places of detention, eliminate prison over-crowding and investigate violations of the rights of persons deprived of their liberty.

85. **Mr. Quezada**, supported by **Ms. Tigroudja**, said that the Committee’s evaluation of the State party’s reply to paragraph 17 (c), on ensuring that cases of enforced disappearance were thoroughly investigated and the perpetrators brought to justice, was not entirely appropriate. The State party had indicated that Articles 101 and 113 of its Criminal Code established penalties for the killing and cruel treatment of persons who had been
abducted or taken hostage, whereas the Committee’s evaluation of that reply referred to those articles as providing for the punishment of perpetrators of enforced disappearance, which was not an accurate reflection of the information stated.

86. **Ms. Sancin** said that the Special Rapporteur had simply acknowledged that there were penalties laid down in the Criminal Code that might be applicable in cases of enforced disappearance. However, no information had been received on investigations of cases of enforced disappearance and whether any had led to prosecutions and convictions and, if so, what sentences had been handed down.

87. **Mr. Santos Pais** said he agreed with Mr. Quezada and Ms. Tigroudja that the Committee’s evaluation of the State party’s reply seemed inconsistent. He proposed replacing the words “enforced disappearance” with “killing and cruel treatment” in order to reflect the wording used in the summary of the State party’s reply.

88. **Mr. Shany** said that the Committee had previously debated the issue of whether a specific provision criminalizing enforced disappearance was necessary. However, since the Committee’s evaluation was simply to acknowledge the information provided while underscoring the fact that the specific information requested was still lacking, he was in favour of retaining the existing wording.

89. **The Chair** said he took it that the Committee agreed with the Special Rapporteur’s proposal to assign a C grade for the State party’s response to the issues raised in paragraphs 17 and 21.

90. **It was so decided.**

91. **The Chair**, speaking as a member of the Committee, said that, with regard to the State party’s replies to paragraph 23, he recalled that an E grade was rarely, if ever, appropriate.

92. **Mr. Shany**, supported by **Mr. Santos Pais, Mr. Koita** and **Ms. Tigroudja** said that, since a response had been provided by the State party, a C grade was merited, even if the information had not been completely relevant. Moreover, the fact that the State party had invested almost US$ 2 million dollars to improve prison conditions might even warrant a B grade.

93. **Ms. Sancin** said it was her understanding that the proposed E grade reflected the fact that State party had simply restated information that had previously been provided, which the Special Rapporteur believed to be a rejection of the Committee’s recommendations. In the light of the comments made by Committee members, she proposed assigning an overall C grade for the State party’s responses to paragraph 23.

94. **Mr. Koita**, supported by **Mr. Shany**, said that it was important to acknowledge that the State party had taken steps towards implementing the recommendation made in subparagraph (c), not least by investing significant sums to improve prison conditions. A grade B for that subparagraph was merited.

95. **The Chair** said he took it that the Committee wished to assign a B grade to the State party’s responses to subparagraph (c) and a C grade for the information provided on the remaining three subparagraphs.

96. **It was so decided.**

97. **The draft report of the Special Rapporteur on follow-up to the concluding observations as a whole, as amended, was adopted.**

*The public part of the meeting rose at 5.20 p.m.*