



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

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Summary record of the 1518th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 26 April 2017, at 3 p.m.

Chair: Mr. Modvig

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The meeting was called to order at 3.05 p.m.

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

Second periodic report of Afghanistan (continued) (CAT/C/AFG/2; CAT/C/AFG/Q/2)

1. *At the invitation of the Chair, the delegation of Afghanistan took places at the Committee table.*
2. **Mr. Hamidi** (Afghanistan) said that, despite the regrettable delay in submitting the second periodic report, his country would make every effort to provide all the information required in a timely manner in the future.
3. The disturbing report issued by the United Nations Assistance Mission in Afghanistan (UNAMA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in April 2017 on *Treatment of Conflict-Related Detainees: Implementation of Afghanistan's National Plan on the Elimination of Torture* underscored the challenging and complex security situation in the country. Nevertheless, Afghanistan was committed to upholding article 1 of the Universal Declaration of Human Rights and had enshrined the protection of human rights and the prevention of torture in the Constitution.
4. The Government had taken many steps to put an end to the prevailing culture of impunity by bringing to justice wrongdoers in positions of power who in the past would rarely have been held accountable for their actions. To date, the ministry responsible for security had prosecuted approximately 30 torture-related cases involving over 50 perpetrators; the penalties handed down had ranged from a 6-month prison sentence and a fine of 15,000 afghanis (Af) to the death penalty. A team had been established to oversee the arrest of nine of the Vice-President's bodyguards and the investigation of allegations of abduction, torture and sexual assault of a political rival. The head of the Herat Provincial Council had been sentenced by the Anti-Corruption Criminal Justice Centre to two and a half years in prison for abuse of power, while the Chairman of the Internal Security Commission of the Senate was under investigation for the same offence. The former Minister of Information and Communications Technology had been suspended on allegations of corruption, and a senior army officer had been dismissed and arrested for corruption.
5. The Government had invested a great deal in bringing lasting reforms to the legal and judicial system. A large number of new judges had been appointed, most of the administrative staff of the Supreme Court and the Office of the Attorney General had been recruited through merit-based competition, and significant female representation had been achieved: the Deputy Attorney-General was a woman, and eight female heads of department had been appointed in the previous year. Over 1,000 judges had undergone training in the country and 540 judges had been sent abroad for professional studies.
6. To address the legal ambiguity regarding the definition of torture, Decree No. 246 incorporated a definition that was in accordance with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Under the Criminal Code, the minimum sentence for torture was three years; where the victim of torture was a child or a woman, the sentence was five years. With a view to safeguarding women's rights, article 398 of the Criminal Code, which concerned honour killings, had been repealed. The Criminal Code also prohibited the recruitment of children into the armed forces and provided for penalties for the recruitment of young people (under the age of 18 years) into the security forces. The Child Protection Bill criminalized the practice of *bacha bazi* (involving the sexual slavery and abuse of boys), and penalties for sexual assault and exploitation were laid down in the Criminal Code.
7. With regard to informal justice, the Government had codified the *jirga* (community council) rules on civil disputes, stipulating that no decision could contravene the existing rules and regulations of the country. Further, to limit the power of the *jirgas* and reduce the number of cases referred to the Taliban and other anti-Government entities, there were

plans to increase the presence of district judges and prosecutors in remote areas of the country in 2017.

8. Particular steps had been taken to apply laws and regulations to eliminate the harassment of women and violence against women. The office of the Deputy Attorney-General dedicated to addressing violence against women was staffed by some 240 employees, and 28 provinces also had such offices, as well as courts dealing with violence against women.

9. Within the framework of family law, work was being done to set the minimum age of marriage for both sexes at 18 years. Work was also being carried out to amend civil law, under which the minimum age for marriage was 16 years.

10. In May 2016, six death row inmates had been executed by hanging in Pul-e-Charkhi prison in Kabul. There had been sufficient evidence for a fair trial, and all those executed, who included members of the Haqqani network, al-Qaeda and the Taliban, had been found guilty of terrorist acts. There were currently approximately 600 prisoners on death row, and while public support for capital punishment was strong, the Government had stayed the execution of many convicts and was determined to keep capital punishment to the lowest possible levels.

11. In accordance with article 58 of the Constitution and its mandate, the Afghanistan Independent Human Rights Commission had been continuously monitoring nearly all the prisons and detention centres in the country. Although conditions for the 30,000 inmates of central and provincial prisons and detention centres were not perfect, the Government was working with international partners to improve major aspects of those conditions, including health and rehabilitation services and educational activities, and to remedy the lack of female medical staff willing to work in remote provinces and dangerous environments.

12. Over 1,000 juveniles, approximately 100 of whom were girls, were in government custody for violating Afghan law. The report issued by UNAMA in November 2016 on *Assessment of Afghanistan's Juvenile Rehabilitation Centres* noted progress in improving basic detention conditions. The Government was taking the necessary measures to ensure that juveniles held at such centres were properly rehabilitated and reintegrated into society.

13. Under article 31 of the Constitution, legal aid was provided to accused persons who could not afford a defence lawyer. There were 121 legal aid providers in government service, and in 2015 they had defended approximately 8,879 cases, 324 of which had involved women and children. Through a national programme on the justice sector supported by the World Bank, 68 legal aid providers had been assigned to 20 provinces. Additionally, a grant facility programme for legal aid had been established in eight provinces, through the joint efforts of the United Nations Development Programme and an independent association of defence lawyers.

14. The country was still being ravaged by the ongoing war: a total of 3,498 civilians had been killed and 7,920 wounded in 2016. Armed groups such as the Taliban had caused about 61 per cent of civilian casualties, Afghan security forces had been responsible for some 20 per cent of overall casualties, and pro-government fighters and international forces had each caused 2 per cent of casualties. Committed to reducing the impact of the armed conflict on civilians and ensuring the observance of all international standards, the Government had developed a national policy for the prevention and mitigation of civilian casualties and was establishing a senior-level protection working group.

15. A peace process did not look likely in 2017. However, a peace agreement between the Government and Hezb-i-Islami Gulbuddin (HIG) in 2016 had been the first major step towards peace in the previous 15 years, and it was believed that the major legal measures it contemplated, including disarmament and integration into society, could be extended to potential processes with other fighting factions. The agreement also provided for the Government to mobilize international support for the voluntary return of 20,000 families from HIG-controlled refugee camps in Pakistan. One of the most important aspects of the peace deal was that, in contrast to the 2001 Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (the

Bonn Agreement), it referred to justice; it was crucial that any peace deal should provide for justice because without it, there could be no lasting peace.

16. From 2016 to 2017, there had been a mass forced return of Afghan refugees from Pakistan. Moreover, the European Union had rejected a growing number of asylum claims from Afghan refugees, using development aid as a political tool to force the return of asylum seekers. Nearly 600,000 returnees, including 365,000 registered refugees, were facing destitution and displacement because of the fighting that continued in the country. The Government had not been adequately prepared to deal with the unexpected influx of people. Afghanistan called on the international community to treat its refugees in accordance with the Convention relating to the Status of Refugees and to honour the aid commitments made at the Brussels Conference in 2016. It had the political will to meet its obligations, but for that it needed the support of the international community.

17. **Mr. Abidy** (Afghanistan) said that the Afghan people supported the National Directorate of Security, recognizing it as completely different from the intelligence agency that had operated with great brutality in the past under the communist regime. Its NDS-013 section, which was responsible for exercising oversight and ensuring that the Directorate's activities complied with the Constitution and international conventions, had 62 well trained employees deployed in 28 of the country's provinces, and it monitored the situation in the remaining 6. It had run capacity-building workshops and seminars for its staff in 2015 and 2016, and their impact might be judged from the figures related to allegations of torture: in 2015, as a result of interviews with 7,272 detainees, 542 complaints of torture or ill-treatment had been registered, with 36 later upheld; in 2016, 9,128 detainees had been interviewed, 656 complaints lodged and 18 of them upheld. The interviews were conducted independently by internal observers. The penalties handed down for torture or ill-treatment included dismissal, written warnings, disciplinary actions and demotions; two heads of section and three provincial deputy directors had been dismissed and a warning had been issued to a provincial director. Five members of staff, including a provincial director, had also been sent for prosecution.

18. In line with directives issued by the Directorate, all juvenile detainees had to be taken to juvenile correction centres immediately on arrest, after a short debriefing, and should not be sent from the provinces to Kabul. NDS-013 had held awareness-raising programmes on the subject in 24 provinces, as well as two workshops in collaboration with UNAMA and the United Nations Children's Fund (UNICEF). All detainees, juvenile and adult, had access to medical facilities, and doctors were required to document any signs of torture or ill-treatment found when examining a detainee.

19. Pursuant to Presidential Decree No. 129, the Directorate submitted quarterly reports to both the President and UNAMA. Together with the Ministries of the Interior and of Defence, it had signed a Memorandum of Understanding with the Afghanistan Independent Human Rights Commission to allow the latter to carry out oversight of detention facilities and to establish an ombudsman. It was also fully committed to working closely with the newly established Commission on the Prevention of Torture.

20. A team was working in Parwan Detention Facility to implement a deradicalization programme, which had been successfully provided to 500 prisoners in 2016; there were plans to extend it to more prisoners in 2017. The Directorate had ordered a full examination of the findings of the UNAMA/OHCHR 2017 report, with teams being sent to Kandahar and Farah to conduct further investigations. It planned to improve its internal oversight and increase awareness of torture, with oversight offices to be established in the six remaining provinces in 2017. It also had proof, including documents and a video circulated by the Taliban, that terror groups had produced guidelines to encourage their members to complain of torture and ill-treatment to human rights observers. All such proof would be submitted to UNAMA. Afghanistan was a country at war, fighting more than 22 terror groups that were a threat not only to the country itself but to the whole world; the Government was nevertheless committed to human rights and democratic values, including the elimination of torture.

21. **Mr. Azizi** (Afghanistan) said that, in implementation of Presidential Decree No. 129, the Ministry of the Interior had signed the Memorandum of Understanding with the

Afghanistan Independent Human Rights Commission providing for the creation of the post of an ombudsman, who would have access to detainees and be empowered to investigate any claims of human rights violations. The Ministry's Directorate of Gender, Human Rights and Children's Rights was expanding from its national and provincial representation to a more local level and would also sit on the new joint oversight committee established with the Resolute Support Mission. Under the Ministry's strategic plan, the mandate for military security was being transferred to the Ministry of Defence, while the Ministry of the Interior would focus on law enforcement; every police officer would undergo training in human rights and international humanitarian law.

22. A needs assessment had been carried out on vocational training for prisoners, and funding was being sought to develop the basic training currently offered; factories producing fruit juice and mineral water were being set up to provide employment for inmates. Prison capacity was to be expanded, both to reduce overcrowding and to make the facilities more manageable. A new high-level commission had been set up to examine all appointments of senior and medium-level prison staff. It would be able to cite allegations of human rights violations as a reason for not granting an appointment. Policy and planning capacity development, the drafting and dissemination of standard operating procedures and improved implementation, monitoring and evaluation of programmes and recommendations were all being carried out with the help of international partners.

23. The need to raise public awareness and respond to public concerns was being met through the holding of public meetings, known as *shuras*, contact with the media and the establishment of a call centre system. Between December 2015 and 2016, the call centre had received over 32,000 complaints about the police, of which 753 had concerned human rights violations, ranging from harassment to unlawful killing. The figure for the previous year had been 717. The call centre had also received information that had led to the successful disabling of 441 landmines and improvised explosive devices.

24. Forty-six cases of human rights violations committed by national or local police officers had been reported between March 2015 and March 2016. Seven of those cases, compared to 20 the previous year, concerned the Afghan National Police. They had all been investigated and forwarded to the Office of the Attorney General. Officers had been arrested as a result, including in seven cases involving torture. Nine officers had been disciplined for human rights violations: one case had been referred to the Office of the Attorney General, one officer dismissed, two given written warnings, two received verbal warnings and three transferred. A total of 142 prison officers had been arrested by the Prisons Directorate the previous year for misuse of authority, corruption or smuggling; a subsequent decrease of 60 per cent had been noted in the occurrence of such incidents. Whenever cases were referred to the Office of the Attorney General, the Ministry deferred to the Office's opinion.

25. The new criminal case management system was operational and contained information on over 26,000 criminal cases and more than 3,300 terrorist cases. Unfortunately, it was not currently possible to give statistics on the length of pretrial detention, but that information would be provided as soon as possible. Although a new policy gave any convicted prisoner who claimed to have suffered ill-treatment the right to a medical examination, it was difficult to provide such access in practice because of the remote location of many local police stations and the limited numbers of trained medical personnel in the country. There was no such right for persons held in pretrial detention, but they could complain to a representative of the Afghanistan Independent Human Rights Commission or to a lawyer and would then be taken to the nearest medical facility, with the outcome of the examination being recorded in the case file. The Ministry had recently signed a Memorandum of Understanding with the Ministry of Public Health aimed at increasing the number of trained medical staff available to places of detention.

26. The Ministry recognized that the independent oversight and accountability mechanisms provided for under the Optional Protocol were the best means for preventing and detecting abuses in detention facilities. To that end, the Office of the Inspector General was currently being strengthened, with international support, to enable it to conduct active oversight. Public understanding of human rights and the reporting of abuses were other important factors, and the Family Response Units, which were composed mainly of women

officers, were seen as a way of encouraging civilian engagement. The Ministry had responded to the allegations of abuse reported by UNAMA, the Afghanistan Independent Human Rights Commission and civil society organizations by sending a senior-level commission to investigate the claims in 28 provinces. Its work had already led to a prison commander being transferred, insufficient evidence having been found to charge him. The commission would produce a report in 2017. Line managers, and ultimately the Office of the Inspector General, should be held clearly responsible for any excessive use of force.

27. The monthly salary of a police officer on entry was Af 10,390, or US\$ 155, in a low-risk district and Af 11,860, or US\$ 174, in a high-risk district, and the authorities tried to ensure that salaries were the same in all parts of the police force. While higher salaries would seem an obvious way of combating corruption, the affordability of that approach was a major concern. A mixed approach, through better management, stronger oversight, more prosecutions, training and practical measures, such as reducing exposure to cash, would seem more likely to improve the situation.

28. The 22 private security firms currently operating in the country were subject to annual inspections. No complaints of torture or ill-treatment concerning them had been received over the previous year. The one historic case involving a member of staff of a private security firm had led to the person involved being arrested, charged and sentenced to a long period of imprisonment.

29. There were currently 987 female detainees held in the country, of whom 300 had children with them. The Ministry's total prison and detention facility staff numbered 6,065, of whom 690 were women. It also had 800 civilian staff. Measures aimed at ending violence against women included a Council of Ministers law prohibiting harassment, and instructions, guidelines and a policy adopted by the Ministry. The national police academy had recently established a department specializing in gender and law. Efforts were being made to increase the number of female recruits to the national police, and more than 1,200 female officers had been sent abroad for training.

30. The reports of the Resolute Support Mission concerning cases of pederasty and sodomy had been investigated and appeared to be unfounded. Legislation was being drafted to address such cases.

31. Child protection units had been established with help from UNICEF and UNAMA in 24 provinces, and a commission had been set up pursuant to Presidential Order No. 1333 concerning the prevention of child recruitment, sexual abuse and the exploitation of children. As a result, the recruitment of 493 children as soldiers had been prevented in 2016, and it was hoped that that number could be brought down to zero.

32. **The Chair** (Country Rapporteur), welcoming the fact that the new law against torture reproduced the definition of torture contained in the Convention, said that it would be interesting to know whether cruel, inhuman or degrading treatment or punishment was also covered by the new law. The fact that it provided for only 3 to 5 years' imprisonment for those found guilty of torture was surprising; he urged the State party to consider imposing a longer sentence for such a serious crime. He would appreciate clarification on whether virginity testing had already been prohibited or whether such a measure was currently being considered by the Government.

33. There were considerable discrepancies among the statistics on complaints available from the UNAMA, the Afghanistan Independent Human Rights Commission and non-governmental organizations; however, the generally tiny fraction of complaints deemed admissible and subsequently investigated was a cause for concern. In that connection, he would like to know whether the Government had taken any action in follow-up to the observations by UNAMA in respect of Presidential Decree No. 129, and specifically that investigation and oversight mechanisms for the National Directorate of Security and the Afghan National Police were insufficient and ineffective.

34. He would be grateful for an answer to his questions regarding access to legal counsel, the presence of which had been proved to be an effective deterrent against torture. Specifically, the delegation should clarify whether accused persons had access to counsel from the time of their arrest, how such counsel was provided and how effective it was;

statistics on the number of accused persons who received legal aid would also be appreciated. Furthermore, he would like to know what measures the Government was considering in order to increase the number of lawyers, including those provided under legal aid, so that detainees could enjoy their right to legal counsel from the outset.

35. As a possible solution to the stated shortage of medical doctors and the related constraints in providing detainees with access to a medical examination, he suggested that the Government might consider giving the Afghanistan Independent Human Rights Commission the authority and support to carry out the initial gathering of evidence of alleged torture. In that way, cases would not be deemed inadmissible because they had not been properly documented at a sufficiently early stage.

36. Referring to the delegation's remarks about the suppression of corruption and the need to strengthen line management in order to keep the use of force within the principles of proportionality and necessity, he said that he would appreciate information on any training programmes put in place to facilitate progress in that area. Statistics on the number of cases of corruption registered in the High Office of Oversight and Anti-Corruption that had been subsequently prosecuted would also be welcome.

37. **Mr. Hani** (Country Rapporteur), referring to the pending arrest of nine of the Vice-President's bodyguards for whom arrest warrants had been issued in January 2017, said that it would be useful to hear what measures were being envisaged to follow up on the cases in question and prevent impunity. He welcomed the establishment of a high-level commission to deal with the pending cases against a number of senior officials accused of torture and would be grateful for further details on that commission, including on whether it could take up cases on its own initiative.

38. Additional information was requested regarding any demobilization and reintegration programmes established for former child soldiers; the role of the Attorney General with regard to women magistrates and any training offered to those women; and the use of corporal punishment in schools. It would also be useful to learn whether the Afghanistan Independent Human Rights Commission was permitted to visit all detention centres, including those in which foreign officials were being held.

39. He wished to know whether the recent peace agreement signed with a political party included a section on human rights violations. Further information on transitional justice and the rehabilitation of victims would also be welcome. He would appreciate details on the status of private security companies in Afghanistan. Were such companies obliged to sign an agreement stating that they would observe human rights and comply with the Convention against Torture?

40. **Mr. Bruni** said that he would like to know what measures the State party was taking to deal with the reported corruption and generally poor conditions at Pul-e-Charkhi prison. A detailed description of the solitary confinement cells mentioned in the State party's report (para. 47) would be appreciated, as would information on the maximum number of consecutive days of solitary confinement permitted under the law. He wished to know whether prison monitoring mechanisms had access not only to all detention centres but also to all detainees, including those suspected of terrorism, and whether private interviews were provided for as part of that access. Lastly, referring to paragraph 183 of the report, he asked if any non-custodial sanctions had been introduced in order to reduce overcrowding in prisons.

41. **Ms. Belmir** said that there were concerns about the varying treatment of those accused of serious human rights violations, which ranged from imposition of the death penalty in the case of persons convicted in a fair trial to the pardon of others under the traditional justice system and to complete impunity in the context of investigation of mass graves. She would appreciate the State party's comments on the apparent inconsistencies of its justice system.

42. **Ms. Gaer** said that she would appreciate a response to her question regarding the charges, if any, brought against police chief Mr. Panjsheri. She would also be grateful if the delegation could confirm that the draft law mentioned in that connection did not provide for the punishment of victims. It would be useful to know whether — notwithstanding the

recent peace agreement between the Afghan Government and the Hezb-i-Islami group — there was any possibility within domestic jurisdiction for investigating the serious crimes of which Gulbuddin Hekmatyar had been accused.

43. Referring to the delegation's earlier remarks about what Human Rights Watch had termed "the world's largest unlawful mass forced return of refugees in recent times", she said that the Committee would be grateful for additional information on the return of those Afghan refugees. It would be helpful to learn, specifically, whether the Pakistani authorities had simply made it inconvenient for Afghans to remain in the country or whether their approach had been more systematic. She also wished to know whether, when persons were handed over by foreign forces or countries, they asked Afghan national authorities for assurances about the treatment of those persons, and whether such assurances were provided.

44. **Mr. Hani** said that he would like to know what steps the Government was taking to prevent civilian deaths at the hands of Afghan forces. In that connection, it would be useful to know if the Civilian Casualty Avoidance and Mitigation Board, the responsibilities of which had recently been transferred to the Government, had been replaced with another entity tasked with reducing attacks against civilians. Noting the delegation's statement that talks with the Taliban had not proved productive thus far, he asked whether accountability for massive human rights violations had been covered in such talks.

45. **Mr. Zhang** said that the State party's report indicated, on the one hand, that the major political parties in Afghanistan had reached an agreement to forgive the past and look to the future and, on the other hand, that the Afghan Government was committed to fulfilling its obligations under the Convention against Torture, including to prevent impunity and bring those responsible for acts of torture to justice. He wondered if the Government considered that to be a potential contradiction and, in any event, how it planned to strike the delicate balance required to meet both commitments.

The meeting was suspended at 5.15 p.m. and resumed at 5.25 p.m.

46. **Mr. Hamidi** (Afghanistan) said that the Government of Afghanistan would take into account the Committee's concerns and recommendations, particularly those regarding penalties for the perpetrators of torture, in its ongoing review of the Criminal Code.

47. While the practice of virginity testing had no basis in the criminal law or criminal procedure of Afghanistan, it persisted, regrettably, in the culture of law enforcement officers, prosecutors and judges. Changing that culture would take time. Progress had been made in the form of eliminating the use of the practice by the Afghanistan Independent Human Rights Commission. In addition, a number of law enforcement officers had been prosecuted for using the practice in investigations. Nevertheless, virginity testing, which was closely related to the issue of adultery, remained a sensitive issue in the country. A clear strategy would be required to build capacity among the law enforcement agencies, monitor cases, prosecute perpetrators and eliminate the acceptance of the practice by the judiciary. Consultations with international organizations and civil society organizations had taken place, and the Government was open to receiving technical support that would enable it to further its work on the issue.

48. A committee headed by the Second Vice-President of Afghanistan had been set up and tasked with aligning the annex to the Criminal Procedure Code referring to the extension of interrogation and investigation times with the human rights obligations of Afghanistan. The legislation drafted by that committee was now before the Ministry of Justice.

49. Torture investigations were overseen by a national committee headed by the chairperson of the Afghanistan Independent Human Rights Commission. The committee, which had recently held its first meeting, had considerable jurisdiction to investigate cases of torture, follow cases with relevant organizations, receive complaints, collect evidence, and visit, without prior notice, every detention facility in the country.

50. The discrepancies between the statistics provided by UNAMA, OHCHR and the Government of Afghanistan reflected case management problems in those organizations. The Office of the Attorney General would work together with the above-mentioned bodies,

in coordination with civil rights organizations, in order to compile information and evidence and investigate all complaints.

51. Every accused person had the right to remain silent, to access a defence lawyer, and to a fair trial — rights enshrined in the Constitution and the Criminal Procedure Code. Only confessions made before a judge were valid; those made to law enforcement officers or attorneys could not be used against an individual in court. The number of legal aid lawyers in Afghanistan was increasing rapidly. However, many people did not know how to contact them, so the Government assigned defence lawyers where required.

52. With regard to medical examinations, it was necessary to build the capacity of law enforcement officers, attorneys, defence lawyers, forensic specialists and independent doctors to examine cases of torture and provide sufficient documentation.

53. Detention facilities were regularly inspected, and no facilities known as “background detention facilities”, such as those previously run by the United States of America, were currently in operation.

54. Significant progress had been made in fighting corruption, as acknowledged in the report issued by UNAMA in April 2017 on *Afghanistan’s Fight against Corruption: The Other Battlefield*. Cases had been brought against at least 70 high-level officials, including generals, deputy ministers, governors and members of parliament. Of 400 cases of corruption filed, some 270 had been referred to the judiciary, while the other 130 had been referred back to the relevant organizations for the provision of further documentation. Information on the decisions of courts and the sentences handed down had been submitted to the High Office of Oversight and Anti-Corruption.

55. The Government was committed to instituting the rule of law and ending the culture of impunity in Afghanistan. Of the cases of the nine bodyguards mentioned earlier, seven had been investigated and two were outstanding. The authorities were committed to implementing justice, however long it took.

56. The protection of children, including the criminalization of *bacha bazi*, was to be enshrined in the new Criminal Code. The victims of that practice would not be punished, and they were being provided with counselling services. The recruitment of child soldiers was not permitted in Afghanistan.

57. In response to the Committee’s proposal to review the cases of the individuals on death row, the President, who had the authority to grant amnesty or reduce punishment, would be consulted. The first aim would be to change the sentences; however, it had to be borne in mind that the maximum prison sentence in Afghanistan was 20 years.

58. A judge in Afghanistan could have graduated from either a sharia law faculty or a modern law faculty, but all judges were familiar with both sets of laws. The prevailing practice was to favour modern law. While it was not possible for females in many neighbouring countries to become judges, Afghanistan, as a modern, open State committed to Islamic teaching and values, had hundreds of female judges and prosecutors.

59. According to the rules of procedure of the Afghanistan Independent Human Rights Commission, international officials had the authority to access and monitor detention facilities in Afghanistan. It was clear from the interviews conducted and the information reported by UNAMA and other bodies that international officials were indeed exercising that right.

60. In 2006, the Government of Afghanistan had approved a national plan for peace, justice and reconciliation based on five pillars. The first pillar — acknowledgement of the violation of the human rights of Afghans during conflict — had been addressed by a national memorial day and museums. The third pillar was to ensure that the most senior officials in the country had a sound human rights background, and a special advisory board had been set up for that purpose. Although Afghanistan had been in a conflict situation for almost 40 years, it was implementing transitional justice and respecting its international human rights obligations.

61. The Government acknowledged that the Pul-e-Charkhi detention facilities, like many standard detention facilities built in recent years, were inadequate for the number of

detainees they currently housed. It was working to enhance the facilities and extend the space available, in order to ensure that the rights granted to detainees under the Constitution, prison rules and regulations, and international agreements were respected. Furthermore, the new Criminal Code would include many alternative penalties to imprisonment.

62. Lastly, the Government was also working to reform traditional justice and limit it to civil disputes. *Jirgas* were not permitted to decide criminal cases, especially those involving women and children. The Government was committed to strengthening the formal justice system to protect the rights of all citizens.

63. **Ms. Dalil** (Afghanistan), referring to the alleged mass forced returns of Afghan refugees from Pakistan, said that evidence of those returns could be found in a recent Human Rights Watch report, published on 13 February 2017, which documented a “toxic combination” of insecure legal status, the threat of deportation during winter, and police abuses, which had left Afghans with no choice but to leave Pakistan. The returnees included some 365,000 registered refugees. A UNHCR report, also published in February 2017, had described the return situation as a “humanitarian emergency” and warned that it could develop into a major humanitarian crisis.

64. **Mr. Hamidi** (Afghanistan) said that the dialogue had been very fruitful. His Government would go through all the points of concern raised by the Committee and was looking forward to its recommendations. The Government of Afghanistan would welcome monitoring, support and technical assistance because it stood willing to fulfil its commitment and obligations to international mechanisms and was keen for its citizens to live in a climate of justice, free from fear.

65. **The Chair** said that he hoped the Committee could be of assistance to the Government of Afghanistan as it worked to fulfil the commitment to fighting torture that it had demonstrated.

The meeting rose at 6.05 p.m.