



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

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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE 699th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 3 May 2006, at 10 a.m.

Chairperson: Mr. MAVROMMATIS

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Third periodic report of Georgia (CAT/C/73/Add.1; CAT/C/GEO/Q/3)

1. At the invitation of the Chairperson, the members of the delegation of Georgia took places at the Committee table.
2. The CHAIRPERSON invited the delegation to introduce its replies (document without symbol distributed in the meeting room) to the questions in the list of issues to be considered during the examination of the third periodic report (CAT/C/73/Add.1).
3. Mr. CHECHELASHVILI (Georgia), apologizing for the late submission of his country's replies, said that his Government valued the opportunity to cooperate with the Committee, which it saw as a means for pursuing the reforms to which it was strongly committed. His delegation was representative of all the institutions involved in the national reform process. Economic reforms in the three years since the Rose Revolution in 2003, which had resulted in a significant increase in budget revenues, had made it possible to undertake reforms in other areas, with particular reference to the priority task of ensuring compliance with the Convention against Torture.
4. The prevalence of torture, and of the impunity recognized to be a key factor in the systematic violation of human rights, had been among the major problems confronting the new Government in 2003. In the drive to combat such practices, law enforcement agencies had been given a remit that placed strong emphasis on the elimination of torture and other inhuman forms of treatment. Police and criminal justice bodies had furthermore been mandated to act in every case of torture and inhuman or degrading treatment, particularly those allegedly involving the law enforcement agencies themselves.
5. In the legislative sphere, a number of measures had been taken to implement internationally-recognized standards in Georgia's criminal courts. As a result of amendments introduced in 2005, national legislation was now fully consistent with the definitions of torture and inhuman or degrading treatment embodied in the Convention. In August 2005, Georgia had acceded to the Optional Protocol to the Convention and had accepted the competence of the Committee against Torture to handle individual complaints. Debates were currently under way on the establishment of national human rights institutions for conducting regular visits to places of detention, although the strong position of the Ombudsman's Office in the institutional framework arguably lessened the need for such institutions.
6. In addition, the Code of Criminal Procedure, as revised in 2004 and 2005, made it mandatory for the competent authorities to undertake prompt and effective investigation of all potential cases of torture and ill-treatment. Other legal safeguards against torture and ill-treatment contained in the Code included: the requirement that police must immediately compile reports on all persons arrested, indicating their physical state and the existence of any injuries; enhanced protection against mental or physical duress, including tighter rules of evidence; giving the person being interrogated the right to demand that the interrogation

proceedings should be recorded by video or audio means; the stipulation that anyone taken for interrogation must receive a medical examination on leaving and on returning to his or her place of detention; and charging the courts with verifying the background to instances of plea-bargaining. Such measures also provided safeguards against fraudulent claims of torture or mistreatment by offenders wishing to obstruct the process of justice.

7. Among the relevant institutional reforms were a number involving the Procurator's Office. The Office was in charge of all investigations pertaining to human rights, which must be approved by the Procurator. A human rights protection unit, established within the Procurator's Office, must be informed within three days of the initiation of any proceedings relating to torture, the threat of torture or degrading treatment, thereby enabling such proceedings to be monitored from start to finish. Investigators from the Procurator's Office were under instructions to wear visible identification badges when visiting places of detention, as were investigating officials from the Ministry of the Interior and the Finance Ministry. A code of ethics had been drawn up by the Procurator's Office to promote behaviour and practices consistent with the public interest and conducive to the fair, effective and impartial administration of justice.

8. Further guarantees for the eradication of torture and ill-treatment were provided by improved working conditions and increased remuneration for law enforcement officials. The budget for the salaries of employees in the Procurator's Office had been increased by a factor of almost 20 over the period 2003-2005. Together with improvements in human resources management, such developments provided a sound platform for the fight against corruption and for the efficiency of the whole system.

9. Institutional reforms within the Ministry of the Interior had likewise had a positive impact on the eradication of torture and cases of ill-treatment in Georgia. Improvements in the calibre of personnel had been achieved in the context of an exercise involving staff separations, salary increases and the introduction of competitive recruitment processes. Training geared to the eradication of torture and ill-treatment had been instituted in police academies, along with measures to upgrade investigative skills. The technical equipment of the police force, notably within the forensic services, had similarly been upgraded. The result had been gains in productivity, a decline in corruption and improved monitoring mechanisms. Statistics for 2005, the product of a monitoring mechanism established within the Ministry of the Interior, revealed a very significant decrease in complaints of ill-treatment lodged by detainees. The focus of the new leadership of the Ministry was to put an end to past practices involving mistreatment of arrested individuals and to ensure proper conditions of detention, medical treatment for detainees, and provision for registration, notification and access by lawyers. Detainees also had the effective right to appeal against the violation of their rights by law enforcement officials. Follow-up action rested with the General Inspectorate of the Ministry or the Procurator's Office, depending on the nature of the allegation. The relevant division of the Ministry worked in close cooperation with the Ombudsman's Office, and NGOs accredited with that Office had unrestricted access to suspects during the first 72 hours of their detention.

10. Reform of Georgia's prisons, which in the Soviet era had served largely as transit institutions for holding convicted persons prior to their transfer to penitentiary institutions on Russian territory, had been initiated in the years following independence, under pressure from the Council of Europe. However, practical achievements had been very limited prior to the

Rose Revolution for lack of financial means. Since 2003, increased budgetary provisions had made it possible to undertake the restructuring and development of the penitentiary system. The construction of several new facilities conforming to international standards had resulted in improved conditions for prisoners and staff alike. A new reform concept for the prison system had been adopted in 2005, and an action plan for its implementation was currently being finalized. A new draft penitentiary code had been drawn up and would be submitted for adoption by Parliament in 2006. The prison medical service was in the process of being transferred from the Ministry of Health to the Ministry of Labour, Health and Social Welfare. A staff skills and knowledge development programme had been launched through the penitentiary and probation service training centre. An independent penitentiary monitoring system, involving local public boards with NGO representation, had been initiated and would be extended nationwide during 2006. The Ministry of Justice and the prison service were cooperating closely in developing projects, with the participation of international and local NGOs, for pre-release educational, workshop and recreational activities for prisoners. The realization of a projected major new penitentiary facility in Tbilisi would be a further key step towards ensuring proper standards of detention for prisoners throughout the country.

11. There remained the problem of human rights violations in the territories of Abkhazia and South Ossetia. The conflict zones in question presented his Government with its greatest problem, to which it was assiduously seeking a peaceful political solution. Although ceasefires were in effect in both territories, acts of extreme violence and grave violations of human rights continued to occur, including numerous cases of torture and cruel, inhuman or degrading treatment. His Government, which was unable to act alone in that regard, was cooperating closely with the international community to put an end to the situation that gave rise to such abuses. A particular problem arose in Abkhazia, where Russian peacekeepers were in some instances aiding or abetting criminal separatists and were thereby, actively or by omission, contributing to human rights violations in the region. Most of the human rights violations in the territory affected ethnic Georgians, and the de facto authorities in Abkhazia bore a heavy responsibility for such violations, which reflected both the stated policy of the separatist authorities and their total negligence in investigating and punishing the acts concerned. Reports of the United Nations Human Rights Office in Abkhazia consistently referred to the culture of impunity that prevailed over the culture of accountability in the territory. His delegation could provide numerous detailed examples of the way in which human rights were regularly violated in Abkhazia and South Ossetia.

12. The CHAIRPERSON invited the delegation of Georgia to introduce its written replies to the questions contained in the list of issues.

13. Mr. CHECHELASHVILI (Georgia), referring to question 1, said that the definition of torture in Georgia's Code of Criminal Procedure had been brought into line with that contained in internationally-recognized instruments, and in particular with article 1 of the Convention against Torture. It incorporated direct references to the result, purpose and mental element of torture. The new definition was also broader in scope, covering acts committed by not only public officials but also private individuals.

14. As to policies developed to enforce the new definition, the Procurator's Office had issued noteworthy internal guidelines to procurators on the conduct of investigations into allegations of torture and inhuman or degrading treatment, placing emphasis on aspects of the definition

relating to the infliction of intense physical pain or mental suffering, the aim of obtaining information, and the distinction between “punishment” and “torture”. The Procurator General had recommended that investigations should be conducted in the light of the new definition.

15. The right of a detainee to a free medical examination immediately following arrest (question 2), and to a subsequent written report, was guaranteed under article 145 of the Criminal Code. In the event of failure to respect those rights, the detainee could lodge a complaint, which must be considered by the competent district court within 24 hours. Medical staff were available at all times in pretrial detention facilities in order to provide medical treatment and undertake examinations of detainees. The right to alternative forensic examination was equally guaranteed by law.

16. Not only did detainees have the right to notify family members of their detention, but there was also an obligation on the part of the competent authorities to inform a family member, or the respective consulate in the case of a foreign citizen. Considerable efforts had been made to ensure compliance with that right, through close cooperation between the Human Rights Protection Unit of the Procurator’s Office, the equivalent unit of the Ministry of the Interior and the Ombudsman’s Office.

17. Significant measures had been taken to make Georgia a “torture-free zone”, particularly within the framework of the Action Plan against Torture (2003-2005) (question 3). The Plan’s priorities had been the adoption of legislative amendments to ensure full compliance with international standards, and coordinated action between State authorities, the Ombudsman’s Office and NGOs. The overall aim was the prevention of torture and other cruel, inhuman or degrading treatment through prompt and effective investigation of allegations of torture within the penitentiary system, with special emphasis on the protection of women and minors.

18. The audio/video recording of police interviews, upon the request of the person held for questioning, had been introduced by virtue of a number of amendments to the Code of Criminal Procedure made in 2005. Further amendments had been made to prevent evidence being obtained through torture, and to ensure that testimony given in the course of preliminary investigations was not used as evidence during the trial against the will of the defendant.

19. As to the right of detainees to counsel (question 4), police officers now systematically received training in human rights protection, and monitoring of police activities had been tangibly strengthened.

20. Regular visits were made by the Investigatory and Monitoring Department of the Ombudsman’s Office to identify cases of human rights violations in temporary detention centres where suspects were held during the first 72 hours of detention (question 5). It should be noted that during the period 2003-2005 there had been six cases in which judges had ordered the release of arrested persons as a result of violation of the 72-hour detention period. In two other cases, judges had not taken that violation into consideration and had been dismissed.

21. The Procurator’s Office was responsible for considering cases of extradition (question 6). Requests for extradition of foreign fugitives were examined in the light of domestic legislation and international law, and decisions were taken accordingly. In the case of disclosure of the whereabouts of a fugitive in Georgian territory, the necessary checks were made to ensure that

the person was neither a Georgian citizen nor had refugee status before proceeding to extradition. Those checks could include contacting the Ministry of Justice of the relevant State, in pursuance of article 13 of the European Convention on Extradition. Expulsion was regulated by the Law on the Legal Status of Foreigners, under the terms of which foreign citizens could be expelled if they had entered the country illegally or no longer had grounds to remain there, if their stay presented a threat to State security or public order, or to the health, rights and legitimate interests of citizens of Georgia, if they systematically violated national legislation, or if they had been sentenced to one year's imprisonment or more for a premeditated offence.

22. Article 3 of the Convention against Torture, article 7 of the International Covenant on Civil and Political Rights, and article 3 of the European Convention on Human Rights underlined the obligation of States to protect persons in danger of being subjected to torture (question 7). In that connection, Georgia requested unequivocal diplomatic assurances that extradited persons would not be subjected to ill-treatment or the death penalty upon return to their country. Neither should they be proceeded against with a view to carrying out a sentence for an offence committed prior to their surrender, other than that for which they were extradited. During the period under consideration, no request for extradition had been refused on the grounds that a person had been under threat of suffering torture or other forms of ill-treatment (question 8).

23. The Georgian authorities endeavoured to conduct prompt and effective investigations into allegations of torture (question 9). Such allegations were principally made against police officers, and were investigated impartially by the Procurator's Office which was independent of the police. The preliminary investigation procedure was initiated upon receipt of the report of criminal acts, and was undertaken in all potential cases of human rights violations, thus contributing to the effective elimination of impunity. Additional safeguards against torture during pretrial detention had been introduced, in accordance with which a person should not be subjected to duress, threat, torture or other methods of physical or mental coercion. The Code of Criminal Procedure established the inadmissibility of evidence obtained through violence, threat, blackmail or other illegal means.

24. He was able to provide the following statistics for offences committed by officials (question 10): 38 cases of torture or ill-treatment in 2004; 182 in 2005; 30 thus far in 2006.

25. Since 2004, 1,129 police officers had been subjected to disciplinary punishment following investigations by the Ministry of the Interior (question 11). Punishment consisted of reprimand, demotion or discharge.

26. Concerning the case referred to in paragraphs 27 and 28 of the report (question 13) involving the arrest of a number of persons of Chechen nationality for illegally crossing the Georgian State border, measures of constraint had been imposed on them for a period of three months. They had enjoyed all the rights granted to persons charged under Georgian criminal procedural legislation and had had the possibility to meet the representative of the Chechnyan diaspora.

27. The Agreement of May 2003 between Georgia and the United States (question 14) on the surrender of persons to the International Criminal Court (ICC) was not in conflict with the principle aut dedere aut judicare contained in article 7 of the Convention against Torture. The Georgian Code of Criminal Procedure established a distinction between "surrender" - i.e. the

surrender of a person to the ICC without the consent of another State party - and “extradition” - i.e. the transfer of a person to another State. The Agreement had only excluded the possibility of surrendering the persons concerned to the ICC without the consent of another State party. By no means did it equate to allowing impunity for perpetrators of torture. If a person was found to have committed an offence under the terms of article 4 of the Convention, three outcomes were possible: prosecution in Georgia, transfer to the United States and extradition to a third State provided that person was not surrendered to the ICC.

28. A number of training activities had been implemented at the various grades, including correspondence and in-house courses in road traffic safety, legal studies, psychology, human rights and police ethics, and the role of the police in democratic States (questions 15 and 16).

29. Thirty forensic experts were employed at the National Bureau of Forensic Expertise (question 17). Six of those experts practised in Tbilisi; all were qualified and performed examinations on both living and deceased persons. In 2004, seven forensic experts had participated in training seminars under the International Torture Victim Rehabilitation Programme. In recent years, 9,000 or so forensic examinations had been carried out annually, including on detainees in prisons, police units and temporary detention cells.

30. Within the framework of the Plan of Action against Torture (question 18), significant amendments had been made to the Code of Criminal Procedure to improve human rights protection. A person was now considered to be a suspect from the moment of arrest, and so the former 12-hour gap during which he had no official status had been filled.

31. As a means of preventing torture and ill-treatment during interrogations (question 19), the progress and results of such interrogations must be recorded in an interrogation report. Moreover, recordings could be used in the course of the interrogation, which must take place within 24 hours of the arrest.

32. The conclusion of a plea agreement without direct participation of the defence counsel and the consent of the defendant was prohibited (question 20). The plea agreement was null and void if it infringed the right of the accused to request criminal proceedings against relevant persons. The overall rate of plea-bargaining amounted to 7-8 per cent.

33. In relation to the Deprivation of Liberty Act (question 21), a recent provision had been added to the Act as a result of case-law analysis. It was aimed at ensuring the physical safety of the prisoner and determining whether he had been subjected to abuse.

34. As to cooperation between the Ministry of the Interior and NGOs (question 22), he drew attention to the fact that the Ministry had cooperated closely with the Ombudsman’s Office and monitoring groups of the Public Council. Those groups were authorized by the Ombudsman to visit any regional or local unit of the Ministry of the Interior without prior notification in order to monitor the implementation of human rights.

35. In the year 2000 the total number of persons deprived of liberty in Georgia (question 23) had amounted to 8,349, including 219 women and 98 minors. The current figure was 11,414 persons.

36. Most prison establishments had been renovated, in compliance with international standards (question 24). The construction of a new prison for 3,000 prisoners was under way in Tbilisi and would be completed in 2007.

37. The procedures for considering complaints from prisoners were regulated by an order of the Ministry of Justice (question 25). The prison service was responsible for handling such complaints, of which around 1,900 had been received between 2000 and 2003. Complaints could also be submitted to the Procurator's Office, which monitored observance of the law in prisons. Between 2000 and 2003, it had received 620 complaints.

38. On question 26, he referred the Committee to the written replies for detailed figures of officials found guilty of offences under article 335 of the Code of Criminal Procedure.

39. Under article 602 of the Code of Criminal Procedure, the Procurator's Office had jurisdiction over all offences, including cases of torture or cruel, inhuman or degrading treatment or punishment (question 27). However, the investigative unit of the Ministry of Defence was competent to investigate such offences committed within the jurisdiction of military units, while the investigative unit of the Ministry of Justice was competent to investigate those committed in prison establishments. However, when those offences were committed by public officials, they came under the competence of the Procurator's Office, while other cases came under the competence of the Ministry of the Interior. Under Georgian legislation, all investigations were conducted under the supervision of the Procurator's Office. It should be noted that most cases of torture and ill-treatment were committed by police officers and therefore investigated by the Procurator's Office. The written replies provided specific examples of cases investigated and their outcome.

40. Torture committed wilfully against a pregnant woman (question 28) was considered as an aggravated form of the offence and was punishable by imprisonment for between 7 and 15 years, and deprivation of the right to hold office for up to 5 years. Likewise, the wilful commission of inhuman or degrading treatment against a pregnant woman represented an aggravating circumstance and was punishable by deprivation of liberty for between three and six years, together with deprivation of the right to hold office for up to five years. By virtue of legislative amendments dated 6 June 2003, trafficking in persons was a criminal offence. It was defined under article 143 of the Criminal Code.

41. Providing statistics on the number of deaths of persons deprived of their liberty, as requested in question 29, he said that there had been 52 cases in 2003, 43 cases in 2004 and 49 cases in 2005, due to illness, violence or suicide. Investigations were carried out into every case in accordance with article 63 of the Code of Criminal Procedure.

42. The General Inspectorate of the Procurator's Office was responsible for operating a 24-hour hotline for receiving complaints of torture (question 30). The procurator on duty at the hotline transmitted the information received to his or her superior, who subsequently conducted inquiries and informed the Procurator General of their results. Reports were prepared on the information received via the General Inspectorate's hotline and submitted to the Ministry for approval.

43. Any accused person was guaranteed the right to submit a complaint to a judge concerning ill-treatment under articles 73 (1) (g) and 76 (2) of the Code of Criminal Procedure (question 31). Any suspect or person accused also had the right to submit complaints regarding the activities of the investigator or procurator, under the same articles.

44. Under amendments to the Code of Criminal Procedure dated December 2005, new measures for the protection of witnesses and victims in criminal proceedings had been introduced (question 32). Pursuant to article 109 of the Code, the judge had the right to apply one or more protection measures from the start of the investigation until the end of the hearing of the case at the procurator's request. They included modifying or withdrawing information permitting the identification of the victim or witness and special measures to preclude physical abuse.

45. In reply to questions 33-35, he said that no information on the application of compensation measures within the period under review was available.

46. Pursuant to article 12 of the Code of Criminal Procedure, a person should not be subjected to duress, threats, torture or other methods of physical or mental coercion during investigative and judicial actions (question 36). Under article 111 of the Code, evidence obtained in contravention of the provisions of the law, or through the use of violence, threats, blackmail or other illegal means, was inadmissible.

47. Under a joint order of 17 January 2006 issued by the Ministry of Justice and the Ministry of Labour, Health and Social Welfare, a joint medical commission had been set up and was empowered to make decisions regarding the medical treatment of prisoners and their transfer to medical institutions (question 38).

48. Article 40 of the Criminal Code, which listed various forms of punishment for offences, did not include any form of corporal punishment (question 39). Similarly, the relevant legislation prescribing disciplinary measures applicable to convicted persons made no provision for corporal punishment.

49. In reply to question 41, he said that Georgia had acceded to the Optional Protocol of the Convention against Torture in August 2005. The Ombudsman's Office might well be the future national human rights institution. It was responsible for the protection of human rights throughout Georgia, including the consideration of complaints of human rights violations, visits to detention facilities and meetings with State officials. It was also entitled to make recommendations to the State authorities on acts that had given rise to human rights violations.

50. An appropriate response to threats of terrorism was a key issue on the Government's agenda (question 42). Under the Criminal Code, a wide range of terrorist acts were criminal offences, including technological terrorism and cyberterrorism (art. 324), attacks against national political officials (art. 325) and taking hostages for terrorist purposes (art. 329). The prompt and effective investigation of such offences was a State priority. Under article 17 of the Constitution, torture or other cruel, inhuman or degrading treatment or punishment was prohibited. Even in a state of emergency or war, restrictions could not be placed on the exercise of that right, in accordance with article 46 of the Constitution.

51. Georgia had no specific legislation aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment (question 43).

52. The CHAIRPERSON, speaking as Country Rapporteur, welcomed the frankness of the third periodic report. Positive developments it highlighted included accession to the Optional Protocol and the declarations made under articles 21 and 22 of the Convention. The State party had almost completed implementation of the legal provisions required to eliminate torture, but as the delegation had admitted, and according to reports received from NGOs and the Special Rapporteur on torture, numerous cases of ill-treatment and torture still occurred.

53. In preparation for its dialogue with the State party, the Committee had examined information from a number of national and international NGOs, including Amnesty International, Human Rights Watch, the World Organization Against Torture and Former Political Prisoners for Human Rights. The information provided by the latter was particularly significant since it listed more than 200 cases of torture. The Committee did not expect the State party to respond to each and every one of those cases, but to provide some explanation as to why they should have occurred.

54. There was no doubt as to the Government's political will to eliminate torture, but it seemed that, particularly among law enforcement officials, the legacy of the former non-democratic regime and its "torture syndrome" prevailed. What were the root causes of the problem? The lack of independence of the judiciary? The ineffectiveness of civil society? The low salaries of public officials? The Committee needed facts and figures to shed light on those issues and to prove that efforts had been and were being made to improve the situation.

55. He asked for an update on the situation of Mahomed Mahaev, a Chechen national, whose case had been brought to his attention by the World Organization Against Torture. He expressed surprise that human rights issues could come under the competence of the National Security Council.

56. Had the State party continued its successful cooperation on human rights issues with the Organization for Security and Cooperation in Europe (OSCE)? What follow-up was being given to the most recent recommendations of the European Committee for the Prevention of Torture?

57. The period immediately after arrest being crucial to the prevention of torture, he stressed the importance of the persons concerned having access to the doctor of their choice during that time. He sought assurance that the provisions of the Convention against Torture relating to persons under arrest were duly implemented.

58. In connection with article 3 of the Convention, the report made no reference to the relevant provisions concerning the non-return of refugees, although it did refer to other international instruments. That was regrettable since the Convention against Torture was the only instrument whose provision on that matter was absolute and non-derogable. With regard to the case of the Chechen nationals extradited to the Russian Federation (referred to in paragraphs 27 and 28 of the report), he said the fact that the Georgian Government had sought

diplomatic assurances from the Office of the Procurator General of the Russian Federation indicated that it had harboured doubts regarding the safety of the persons concerned. Moreover, in matters of extradition, expulsion and return, the State party concerned was obliged to examine applications individually and not collectively. Was that procedure followed in Georgia, or were there plans to introduce it?

59. Paragraph 31 of the report referred to police officers “relieved of their duties” for human rights violations. Did that mean they had been suspended? He would welcome further information on the penalties imposed under such circumstances, since he had the impression they might not be wholly appropriate.

60. Could the Ombudsman or NGOs visit prisons without prior notice? He asked for further details on the application of the 72-hour time limit for short-term detention. He expressed concern about the time limit not being observed, and its implications for the judiciary, particularly since the standard time limit in other countries was now 48 hours.

61. Mr. WANG Xuexian, Alternate Country Rapporteur, drew attention to a contradictory situation where despite the Government’s efforts to introduce relevant legislative and other reforms, the number of complaints of ill-treatment had increased considerably between 2000 and 2003. While he was aware it would be some time before the benefits of the reforms were felt, the situation nonetheless warranted some explanation. Similarly, he would welcome further information concerning the report that on 27 March 2006 the Government had prevented a nationwide prison riot plotted by criminals. Since the riot had caused numerous casualties and there had been allegations of excessive use of force, he asked whether there were plans to carry out an investigation.

62. Turning to more specific issues, he welcomed the extensive training activities undertaken by the State party, which he hoped would help to ensure the implementation of the provisions of the Convention. Was there any mechanism in place to assess the effectiveness of such training?

63. According to paragraph 59 of the report, an independent monitoring board had been established within the Ministry of Justice. He failed to understand how it could be independent when it was attached to a State institution.

64. According to paragraph 75, during the reporting period cases where there was sufficient reason to believe that torture had been used had been properly investigated. The NGOs seemed to hold a different view. He wished to know exactly how many of the 1,900 complaints of ill-treatment or torture recorded between 2000 and 2003 had been properly followed up. It was essential that the persons responsible were duly punished, as a culture of impunity was a breeding ground for torture. In that connection he asked whether the details of disciplinary measures taken against law enforcement officials provided by the delegation related exclusively to cases of torture. Also, what progress had been made with the drafting of new provisions relating to the right of the accused to complain to a judge concerning ill-treatment during pretrial detention, referred to in paragraph 85 of the report?

65. With regard to article 14, he enquired how many victims of torture or ill-treatment had received compensation during the reporting period and sought clarification regarding the apparent absence of a specific provision for reparation.

66. Lastly, he stressed the importance of improving prison conditions, which had been described by the Special Rapporteur on torture as appalling. While recognizing that the problem might be partly due to a lack of resources, he considered that greater efforts could have been made to reduce the very high death rate among prisoners, particularly from tuberculosis, through improved medical care and prison conditions.

67. Mr. CAMARA, echoing Mr. Wang's concern about the number of deaths of persons deprived of their liberty, said that the information provided in response to question 29 of the list of issues was insufficient and asked the delegation to indicate the names of each of those who had died, the cause of death and the status of the corresponding investigation.

68. In the context of bilateral treaties, he drew attention to Georgia's possible infringement of the Vienna Convention on the Law of Treaties if it had ratified, or envisaged ratifying, the Rome Treaty. Georgia could not renege on its obligations under a multilateral treaty, claiming that its domestic legislation obliged it to do so. He asked for information on that matter.

69. Ms. GAER thanked the delegation for its impressive replies and for the material it had provided. In connection with article 3 of the Convention, she sought clarification of the degree to which asylum-seekers had access to UNHCR facilities; how that access was facilitated; and to what extent Meskhetians were able to claim asylum, given the questions raised by their non-citizen status under Georgian law.

70. Turning to the question of violence against religious minorities, in connection with which it had been asserted that the police were no longer passive bystanders or facilitators, she asked what affirmative measures had been taken to instruct police officers concerning their obligations in that regard, and whether attempts had been made to address the role of the media.

71. Recalling the assertion that all members of the police force were required to wear identity badges, she referred to reports of the use of masks during police raids, which NGOs claimed was to ensure anonymity. She requested clarification of the delegation's views on that matter.

72. She welcomed the information provided on national human rights institutions, particularly the fact that the Ombudsman's Office would be the national institution with responsibility for matters arising under the Optional Protocol to the Convention against Torture, and commended the efforts made.

73. With reference to question 28 of the list of issues, she expressed surprise at (a) the assertion that no cases of rape and sexual assault had been recorded at penitentiary facilities during the period 2000-2005, particularly given the considerable increase reported in the number of persons in prison (from 7,000 to 11,000), (b) the absence of a law against domestic violence, and (c) the limited legal provisions governing rape and related offences. What affirmative action was being taken in prisons to monitor that issue and to enable prisoners to come forward and lodge complaints? Did confidential procedures exist? She hoped the delegation could provide more information on that matter. With regard to trafficking, she sought clarification on the instructions given to police officers and border guards on how to identify trafficked individuals. That had been a major issue in the consideration of the previous report, and she wished to know if, and how, the situation had been brought under greater control.

74. On the matter referred to in question 26, she asked for more precise information concerning the number of officials found guilty specifically of torture or ill-treatment, as opposed to more vague charges such as “abuse of power”. Similarly, with regard to question 11, she hoped that figures could be given to clarify the number of police officers who had been severely reprimanded or discharged as a result of allegations of torture or other cruel, inhuman or degrading treatment or punishment.

75. Referring to the comments made by Mr. Wang concerning the prison riot, and recalling the delegation’s statement that the rather vigorous crackdown within prisons was aimed at breaking up criminal gangs, she expressed concern at the increased allegations of violence. For example, in relation to prison No. 7, disturbing reports had been received that since December 2005 Ministry of Justice forces had been involved in violent incidents, and that detainees were no longer being allowed the same access to lawyers and were being subjected to greater surveillance. How much of that was about breaking up criminal conspiracies and how much was about a cutback in rights across the board?

76. Mr. GROSSMAN thanked the delegation for the information provided, and expressed his appreciation for the positive measures being taken to combat torture. Despite the existence of the 24-hour hotline for complaints, the fact that the Ministry of the Interior did not know how many calls had been received suggested that the hotline did not play a very important role.

77. He asked whether the delegation could provide statistics to show if compulsory medical examinations of detainees had helped to identify cases of torture, and whether it thought such examinations were sufficiently transparent to obtain the information required to establish torture. In the Committee’s experience, forensic doctors worked more satisfactorily when they had no hierarchical link with the institution they were supervising. He therefore asked for clarification of the hierarchical framework in which forensic doctors worked.

78. He would be interested in the delegation’s views on the value of seeking non-custodial alternatives to pretrial detention. International experience had shown that prisons, like hospitals, were centres of infection. There was abundant evidence that alternative custodial systems existed which could protect the population, while avoiding the major disadvantages of prison detention. What mechanisms was Georgia considering in that regard in the context of forthcoming reform and renovation?

79. He asked for further details concerning the postponement by Parliament, on four occasions, of the enactment of a law on State reparations in cases of torture. Such reparations were important in order to eliminate a climate of impunity. What was the delegation’s view of the postponement?

80. According to a report by the World Organization Against Torture (WOAT), 17 people had been killed during the first quarter of 2006 during special operations. Was that true? He hoped the delegation would inform the Committee how it interpreted those events, and whether it thought there had been a disproportionate use of force. He sought clarification as to the related investigations and possible convictions.

81. He joined Mr. Camara and others in expressing concern at the high number of deaths in prison reported and asked whether the necessary investigations were being carried out, particularly in relation to the 43 deaths reported in 2004.

82. Mr. KOVALEV joined his colleagues in commending Georgia for its excellent report and detailed replies. He expressed surprise that, despite the extension of the concept of torture to cover acts committed not only by public officials but also by private individuals, as described in the reply to question 1, no information had actually been given in relation to private individuals. Why was that? Incorporating those two different “levels” of torture in the Criminal Code was perhaps a source of confusion.

83. Ms. SVEAASS thanked the delegation for its comprehensive report and openness. In connection with the information provided on the Plan of Action against Torture, she asked the delegation to provide further information on the special measures implemented to protect women and minors from torture or other cruel, inhuman or degrading treatment. She hoped information could also be provided on the facilities for minors in detention, especially in view of their high number.

84. Concerning the answer given earlier in relation to article 14 of the Convention and questions 33 and 35 of the list of issues on the subject of reparation, she had been surprised at the short answer that no applications for reparation had been made. She wondered whether there could be a link between that matter and the repeatedly postponed enactment of the law on State reparation in cases of torture. If so, that was a problematic issue. What measures was Georgia envisaging in the area of reparation, including the aspects of compensation, rehabilitation, medical care and psychological and social assistance? And to what extent would they be implemented for victims of torture?

85. Ms. BELMIR joined her colleagues in thanking the Georgian delegation and commended the efforts it had made to comply with its international obligations. The State party had described the Procurator’s Office as an institution attached to the judiciary, which combined the functions of public prosecution, conduct and monitoring of proceedings, and sentencing. To supplement the information already provided on the appointment and term of office of the Procurator General, she asked the delegation to provide similar information on other matters relating to the judiciary, for example, the recruitment of judges, their careers, the guarantees that enabled them to perform their official duties, and disciplinary measures.

86. She wondered about the role of the Procurator’s Office in ensuring a fair trial, which could be said to be the defining characteristic of the rule of law. Noting the multitude of functions assigned to the Procurator’s Office - which included responsibility for investigating allegations of torture and ensuring that the 72-hour pretrial detention period was respected, together with the various affirmative actions that had been described, she expressed surprise at the high number of allegations of torture during the pretrial detention period, and at the fact that

the 72-hour limit was nevertheless exceeded. In the light of the above, what role could the Procurator's Office play? And how did it fulfil its functions, given that it was supposed to intervene a priori in the legal process and not a posteriori in order to reduce the incidence of torture?

87. After noting that bodies attached to the Ministry of the Interior played a dominant role in informing the judiciary of the number of allegations of human rights violations, particularly those relating to article 1 of the Convention, she asked whether the commitment to reviewing coordination between the Ministry of Justice and the prison service that had been expressed was designed to strengthen the powers of procurators, or whether there was another underlying reason.

The meeting rose at 1 p.m.