



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

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**Committee against Torture
Forty-eighth session**

Summary record of the first part (public)* of the 1064th meeting

Held at the Palais Wilson, Geneva, on Thursday, 10 May 2012, at 10 a.m.

Chairperson: Mr. Grossman

Contents

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

Third periodic report of Armenia

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1064/Add.1.

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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 *(continued)*

Third periodic report of Armenia (CAT/C/ARM/3; CAT/C/ARM/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Armenia took places at the Committee table.*
2. **Mr. Kirakosyan** (Armenia) said that the third periodic report had been prepared by an inter-agency working group established pursuant to a decision of the Prime Minister and composed of representatives of the relevant ministries and agencies. Armenian legislation in recent years had been steadily brought into line with the Convention. In particular, amendments to the Criminal Code, which included a definition of torture in accordance with the Convention, were currently before parliament. Efforts were also being made to clarify the legal meaning of causing “severe damage”.
3. Armenia continued to enhance the safeguards for persons deprived of their liberty. In particular, it had drafted amendments to the Code of Criminal Procedure, which set out new procedures for drawing up a record of arrest as soon as a person was taken into police custody. Current police reforms also envisaged a nationwide computerized police report network, which would keep electronic records of such persons. There were plans to publish booklets in Armenian, Russian and English on the rights of persons detained in police stations. Furthermore, guidelines had been established on the rights and obligations of police officers relating to the apprehension of persons.
4. The Court of Cassation had also heard a number of cases in recent years, which had resulted in shoring up the rights of persons deprived of their liberty. Its work in that area was important as it was filling gaps in domestic law. There was excellent cooperation between the Ministry of Justice and the Chamber of Advocates, while legislative amendments had been introduced to increase the independence of lawyers. Furthermore, a strategic plan of reform of the legal system had been adopted to enhance the Office of the Public Defender, an independent agency that provided free legal assistance. The Human Rights Defender, recognized by law as an independent national preventive mechanism, had also been making significant efforts to strengthen procedural safeguards.
5. An Investigation Service had been established under the Ministry of Defence in order to fight crime in the military. The Service cooperated closely with the Office of the Military Prosecutor, the Military Police reporting to the Ministry of Defence and other bodies. A bill on alternative service, which adopted a more lenient attitude towards conscientious objectors such as Jehovah’s Witnesses than at present, was currently under review.
6. Armenia had made significant progress in combating gender discrimination and violence against women and children, and had prepared a bill on domestic violence, which was currently under consideration by various institutions and would soon be adopted.
7. The cooperative efforts of various law enforcement agencies, including the police and the Office of the Prosecutor-General, had helped to bring about a decrease in juvenile delinquency in recent years. The Government had also carried out policies to prevent trafficking in persons, with the involvement of civil society, including victim services such as shelters, medical and psychological assistance, education and training. It had signed a number of international and regional instruments relating to human trafficking, forced labour and child labour. Armenia had also entered into several multilateral and bilateral treaties concerning mutual legal assistance and extradition within the framework of the Council of Europe.

8. While great strides had been made in preventing torture in prisons and other places of detention, the poor state of the prison system infrastructure remained a major challenge. A programme had therefore been launched to build new places of detention and renovate existing institutions. Construction on a penitentiary institution in Armavir would be completed in the coming year, which would help to alleviate the problem of overcrowding.

9. Armenia had expressed concerns at high-level international forums, including the Human Rights Council, over large-scale systematic State-sponsored anti-Armenian propaganda and hate speech on the part of the Azerbaijani leadership. His Government regretted that the Committee website had been used for the dissemination of such propaganda and hate speech. Human rights organizations had expressed their concern over the well-known witch-hunt begun by the Government of Azerbaijan against persons of Armenian origin. He recalled that the purpose of the current forum was to discuss the status of implementation of the Convention, not issues concerning relations between countries.

10. **Ms. Gaer** (Country Rapporteur) said that while she welcomed the information provided concerning pending draft legislation, including an amended Code of Criminal Procedure, she would prefer of course if the legislation had already been enacted. She was struck by a number of apparent contradictions, such as that between the efforts at major legislative reforms and the climate of impunity in the lower ranks of the police and judiciary. There was also a contradiction between the presidential elections that had taken place in February 2008 and the arrests, violence and loss of life that had followed. Some four years after the events, the deaths were still under investigation. She noted the concerns expressed by the United Nations Development Programme in its research on the implementation by Armenian courts of the Convention. Although a national programme to combat gender-based violence had been established, there was still no law on domestic violence. The Committee had been told by other United Nations bodies and various experts that corruption was a problem, that there was a low level of trust in the police and the judiciary, that violence went unpunished and that police were reluctant to launch investigations. When investigations were pursued they were often inconclusive and did not lead to prosecutions.

11. Referring to the Court of Cassation Decision of 18 December 2009 in the case of Gagik Mikaelyan, which set out the procedures for remand in custody, she said that all those called to appear in police stations should be afforded prompt and adequate legal safeguards, such as access to counsel, even if no corresponding record of arrest had been drawn up. There were NGO reports that the police did not abide by the above-mentioned Decision because it was an instruction and was not codified in the law. She asked what the Government was doing to ensure that officials observed the Decision in practice and whether there were plans to amend the relevant laws to make it clear that all apprehended persons had the right to counsel, in particular in the case N. Poghosyan referred to in the written replies. There were also reports, including from the Civil Society Institute (CSI), the International Federation for Human Rights (FIDH) and the Human Rights Defender himself, that the police often failed to book persons within the three-hour time limit established by law, even when those persons had been formally designated as suspects. Police frequently neglected to register the time of entry of those taken in for questioning. The Human Rights Defender and the European Committee for the Prevention of Torture had recommended that there should be video recordings of persons entering police stations, which would record the time of entry and help to standardize the process.

12. She commended the instruction mentioned in paragraph 54 of the written replies to the list of issues setting a maximum period for detaining persons in remand centres. However, implementation of the instruction remained a matter of concern. She would appreciate any information on cases in which law enforcement officers had been punished or disciplined for failing to take down properly the particulars of persons remanded in

custody, in accordance with Government Decision No. 574-N. She would like to know whether law enforcement officials had been punished for failing to transfer persons remanded in custody from police detention facilities to a prison establishment within no more than three days as required by law.

13. It was also alleged that legal assistance provided to defendants was insufficient. The average number of cases handled by public defenders had more than doubled since 2007 and there were reports that as many as 30 different cases might be dealt with at the same time. She therefore wished to know whether there were plans to increase the funding provided to the Office of the Public Defender and whether there was a timetable to change the situation. In addition, police in practice purportedly denied suspects the right to contact a family member within 3 hours of being detained. There was a contradiction between the Code of Criminal Procedure and the Police Act, as one put the time limit at 12 hours and the other at 3, with the result that the police reportedly failed to enforce the law. She asked what steps were being taken to reform the Code of Criminal Procedure so that relatives could be notified within 3 hours of a person's detention, or immediately on deprivation of liberty.

14. There had been reports that few independent doctors were being provided to detainees. She noted that medical examinations were available only on request and for a fee. She would appreciate data on the number of cases in which arrested persons had requested medical exams and how often the requests had been granted.

15. The Committee was concerned about the issue of an independent investigation body. The Investigation Service had been created to conduct pretrial investigations into offences involving public officials. It was not clear, however, how effective those investigations had been. She wished therefore to draw specific attention to the case of Levon Ghulyan. The Investigative Service preliminary investigation into the case, involving alleged incitement to suicide, was still under way. She failed to understand why calls for an investigation had to be made on three occasions and what accounted for the delays. There were also questions concerning the investigation of the case of Vahan Khalafyan, who had died as a result of knife wounds to the stomach. There were doubts as to whether a person could inflict two such wounds on himself and die as a result. She did not understand why family members were required to wait for a court order for there to be an investigation or why there were not immediate investigations when cases involved death in custody.

16. She would welcome further information on the definition of torture under the draft legislation in progress and any available texts of the relevant amendments to the law. Clarification was needed on the statement concerning amendments made to the Criminal Code in paragraph 1 of the replies to the list of issues. NGOs had informed the Committee that the Code had not been amended. Article 119, for example, concerning torture, was not being applied to public officials. She therefore drew attention to paragraph 11 of the Committee's general comment No. 2 (CAT/C/GC/2). Officials tended not to be prosecuted for torture. Rather, they were prosecuted for abuse of power and other provisions of the Criminal Code. She noted with concern that many officials prosecuted for abuse of power under the Criminal Code had received amnesties.

17. The Human Rights Defender had said that the budget for the activities of his office were limited. There was a constant need for monitoring that could not be met because of inadequate State funding. She asked whether there were plans to increase the budget to enable the Human Rights Defender to carry out his functions properly, including those of considering complaints and acting as a national preventive mechanism.

18. The report of the South Caucasus Network of Human Rights Defenders, available on the Committee website, had provided information on the number of soldiers who died annually, including through suicide. She could not find any official figures, however, and

would be grateful to have them if they existed. She would also like to know what measures had been taken to ensure the independence of the Investigation Service from the military hierarchy and whether the Office of the Military Prosecutor was independent of the hierarchy. How many cases had been handled by the Investigation Service since its establishment in 2007 involving allegations of torture, ill-treatment or hazing by soldiers against fellow soldiers and what had been the outcome? In particular, she would appreciate an update on the case of Vardan Sevian referred to in paragraph 11 (a) of the list of issues. The family of the deceased had described him as right-handed, while the location of the bullet wound that had killed him seemed to suggest that he would have had to pull the trigger with his left hand. She wondered if the delegation could comment on the case. She also would like to receive details of the case of Gevorg Kotsinyan, including the authorities responsible for its investigation and prosecution, given that the death had occurred in the Nagorny Karabakh region. The reply suggested that information had been provided by the Nagorny Karabakh authorities. She would appreciate clarification on the line of authority, level of independence and competence of the authorities involved, given that the case concerned a region that some would call an occupied territory and others a fully annexed area. Further details were needed of the case of Artak Nazarian, as some of the defendants had been charged with inciting suicide.

19. Turning to domestic violence, she asked for more information about the 31 criminal cases referred to in paragraph 244 of the replies to the list of issues, as the figures provided did not tally. She would appreciate details of the offences committed in each case, the articles of the Criminal Code under which the accused had been charged and convictions obtained. As there was only one shelter for domestic violence in the entire country, which was run by an NGO and did not receive public funding, she wished to know whether the State intended to provide funding for the purpose or open such shelters itself.

20. Turning to the independence of the judiciary, she asked whether the State party was considering amending the laws governing judicial appointments and dismissals so that the executive branch did not have the authority to dismiss judges once they were appointed. She would appreciate in particular further information on the case of Judge Samvel Mnatsakanian, who had been dismissed by order of the President because he had allegedly failed to substantiate a decision to place a defendant on bail rather than in prison. She requested an update on the four non-commissioned officers described in the replies to the list of issues (paras. 379–395), and details of the article of the Criminal Code under which they were being investigated and the penalties for violating the article. Were there any deaths as a result of the use by the officers in question of gas grenades or compensation awarded for injuries caused?

21. She would welcome a reply to the question raised by the Committee in paragraph 8 of the list of issues, particularly as to whether the State party intended to provide for monitoring and recording of police interviews of individuals deprived of their liberty in all places of detention, including by closed-circuit television.

22. Turning to article 3 of the Convention, she asked for data on extradition based on the relevant agreement between Armenia and the Russian Federation, as had previously been requested by the Committee. It was not clear whether Armenia required other countries to allow it to monitor the condition of persons that it extradited when they alleged that they faced a risk of torture. Lastly, she would welcome data on the total number of deportations and expulsions, the countries to which people were deported or expelled and the number of rejected asylum seekers and undocumented migrants currently held in administrative detention.

23. **Mr. Wang Xuexian** (Country Rapporteur) commended the State party's many efforts to promote human rights, including the prevention of torture. He sought clarification of the apparent inconsistency between the law on refugees, which exempted asylum seekers

who entered the country illegally from criminal prosecution, and the law on State borders, which considered all persons who crossed State borders without authorization to be in violation of the law. He asked whether Armenia intended to bring the two laws into line. Clarification was needed on the reported lack of independence of the judiciary, particularly as there were judges and prosecutors present in the delegation. He wished to know whether independent assessments were made of the impact of human rights training and whether any special training was given to border guards. He wondered whether the right of access to counsel applied to all cases, irrespective of their nature.

24. He would appreciate comments on the finding in the report of the Working Group on Arbitrary Detention (A/HRC/16/47/Add.3) to the effect that suspects were invited to police stations under the pretext that they were material witnesses, only for their status to be subsequently altered from witness to suspect during their time in custody. He failed to understand why, according to the above-mentioned report, the Human Rights Defender had received more than 5,000 complaints in 2009, whereas he had received only 40 between 2006 and 2009, according to the national report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1 (A/HRC/WG.6/8/ARM/1). It was not clear what was meant by the more than 40,000 "requests" referred to in paragraph 45 of the national report.

25. More information was needed on the forms of compensation to victims of torture, as it seemed to be awarded only for pecuniary loss. It would be useful to learn more about the national action plan for combating trafficking in persons. He asked whether the State party intended to enact legislation to ensure the complete prohibition of corporal punishment. More information was needed on allegations that article 15 of the Convention concerning the use of evidence obtained through torture was not observed in practice in the State party. He would also like an update on the case of Armen Martirosyan, who was alleged to have been tortured and to have attempted suicide while in a juvenile detention centre. Lastly, he asked for comment on reports that it was common practice for detained and convicted persons to give bribes to receive food or even to use basic amenities such as telephones and baths.

26. **Mr. Tugushi** asked whether there had been any increase in the budget of the Human Rights Defender since it had been given the function of the national preventive mechanism. He would also like information on the conditions in Nubarashen Prison in Yerevan, which had been criticized on a number of occasions by the European Committee for the Prevention of Torture, in particular the conditions of detention of foreign nationals held in separate cells there. He asked what had been done to address overcrowding and improve the conditions of persons sentenced to life imprisonment. Did routine handcuffing still take place when they were taken out of the cells? He also wished to know whether steps had been taken to stop bribe-taking in prisons.

27. **Ms. Belmir** asked for clarification of the fundamental human and civil rights and freedoms under article 43 of the Constitution of Armenia referred to in paragraph 22 of the third periodic report. She would like a further explanation of the arrest procedure described in paragraph 70 of the replies to the list of issues. There had been reports that an overwhelming majority of the population did not trust the judiciary. She wondered what accounted for the lack of trust. Turning to minors, she said that although much work had been done to prevent delinquency, there had been no discussion of juvenile justice. She would like to know what provisions were in place to guarantee justice for minors in accordance with international standards.

28. **Mr. Bruni** asked whether there was any clear legal or administrative procedure under which subordinates could challenge an order from their superiors if the subordinates perceived the order to be unlawful. He wished to know why the maximum prison sentence for perpetrators of the crime of torture was only 3 years, or up to 7 years when there were

aggravating circumstances. He enquired which violations of the established procedure warranted placing a juvenile prisoner in a disciplinary cell for 10 days, according to the State party authorities. He would also appreciate a description of a disciplinary cell, including its dimensions. He drew attention to the fact that the Committee had recommended to another State party, which had also been visited by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, that it should review a similar sanction, in response to which the State in question had undertaken to reduce the period of time if not abolish that disciplinary measures altogether for juveniles. Given that a new definition of torture was being prepared to bring it into line with that contained in the Convention, he recommended that the State party should also amend its legislation to provide for compensation for victims of torture. The State party had undertaken to provide monetary compensation in August 2009 to the victims in the cases listed in paragraph 214 of the periodic report, on which the European Court of Human Rights had handed down judgments. He wished to know whether the victims had indeed received such compensation and if so, what amounts they had received and how those amounts had been decided.

29. **Mr. Gaye** asked whether article 352 of the Criminal Code defining liability for judges did not undermine judges' ability to conduct their work in an impartial manner. He also wished to know whether any cases had been brought before Armenian courts involving foreigners who were on the State party's territory and who had allegedly committed a crime listed in article 4 of the Convention while abroad, as required under article 5, paragraph 2, of the Convention. It would be useful to know the outcome of the 43,844 requests, 40 complaints and 4 proposals that remand prisoners and convicts had submitted to penitentiary establishments and the Penitentiary Department of the Ministry of Justice between 2006 and June 2009. He wished to know whether victims of torture in the State party had the right to any form of rehabilitation as a form of compensation.

30. **Mr. Mariño Menéndez** asked whether judges or any other body of the public administration in the State party could order detainees to be placed in incommunicado detention. It would also be useful to learn who was responsible for ordering the change of status of a witness who was called to provide evidence in a case and, in the course of proceedings, became a suspect. In such a situation, were witnesses detained incommunicado prior to their court appearance and did they have access to a lawyer?

31. He enquired whether the new code of military discipline had been finalized. He requested clarification of the scope of military jurisdiction over crimes that affected civilians and were allegedly committed by members of the armed forces. It would be useful to know whether there was a minimum age up to which it was compulsory for children to attend school, thereby preventing them from working. Did children have the right to free primary education in the State party? The Committee would appreciate information on the right to free legal assistance for people who lacked sufficient means to pay for such services, particularly asylum seekers and migrant workers who were in an irregular situation. It would be interesting to learn whether migrant workers in an irregular situation were deported or if there was some kind of humanitarian assistance available to them, and whether their right to seek asylum was protected. He requested additional information on the extent to which the Ombudsman and the Public Monitoring Group cooperated in their work, given that their mandates seemed to overlap significantly.

32. **Ms. Sveaass** requested additional information on the legislation under which children under the age of 14 who demonstrated antisocial behaviour were sent to special schools. She wished to know whether those schools were regularly visited by independent entities. She asked what follow-up was provided in practice for people who had been ill-treated in prison or elsewhere. Given that the European Court of Human Rights had ruled against the State party in some 25 cases, she wished to know what compensation the

victims had received and what other measures the State party had implemented in the wake of those rulings, particularly concerning training and legislative changes. It was especially important to know whether there was any training provided in the State party on the Istanbul Protocol, as the Committee had received reports that not all prisoners had access to a doctor. She asked what services were provided to victims of trafficking, in particular whether they had access to shelters, active rehabilitation programmes and victim support programmes. She requested more specific details on the functioning of the confidential complaint mechanisms for people who were deprived of their liberty. The Committee would also appreciate a precise account of the steps that had been taken to investigate the allegations of ill-treatment by the police in the course of a large-scale operation on 17 April 2010 in the Nor Nork district of Yerevan. In the light of reports that lesbian, gay and transsexual persons were often targeted for abuse in prisons and police stations, she asked what measures had been taken to investigate such allegations and to ensure that appropriate training was provided to prison staff and police officers to prevent such incidents in the future.

33. **Mr. Domah** commended the State party on its aspirations and efforts. However, he remained concerned about what actually happened at the grass-roots level. For example, the judicial system was clearly not functioning as it should. He asked whether judges belonged to a national or international association, in which they could learn about democratic culture. Did the State party ensure that all judicial staff engaged in continuous professional development, which enabled them to apply international law and norms? Given that there was a code of judicial conduct and that there had been judicial reform decrees, it would be useful to know to what extent those instruments were applied.

34. **The Chairperson**, speaking as a member of the Committee, welcomed the State party's abolition of the death penalty in 2003 and its establishment of the Office of the Ombudsman. The Committee would welcome the opportunity to examine and comment on the draft amendment to the Criminal Code that was being prepared in order to bring the definition of torture into line with that in article 1 of the Convention. He requested confirmation that coercion to give testimony or bear false witness constituted torture only when it was exercised during a trial, and not beforehand. It would appear that in order to bring a criminal case concerning torture, the victim was required to institute a private prosecution. However, if the victim and the perpetrator achieved reconciliation, the criminal case was closed. He failed to understand why that was the case, since torture was a crime of public action that placed the legal order of a State at stake. Victims' access to lawyers and doctors was another element that the State party should reconsider. He would welcome the delegation's comments on the apparent conflict of interest inherent in the fact that the Prosecutor's Office appeared to be responsible for investigating abuses by its own staff. The State party had embarked on an ambitious legislative reform programme; it would be useful to learn whether civil society was involved in those reforms and when the programme was expected to be complete.

35. He drew the delegation's attention to the disclaimer that was posted on the Committee website explaining that the Office of the United Nations High Commissioner for Human Rights (OHCHR) was not responsible for the content of reports provided to the Committee and that the provision of the reports on the webpage did not imply that the Committee or OHCHR associated themselves with their content. Moreover, the website also indicated that submissions not related to the implementation of the Convention in the concerned State party were not posted. The Committee also excluded from the website submissions that were anonymous, those that did not relate to obligations under the Convention and those that employed inappropriate language.

36. **Ms. Gaer** (Country Rapporteur) asked how many people were currently in prison on the grounds that they were conscientious objectors and what the average length of the

sentence was in those circumstances. It would be useful to learn whether the State party planned to amend its alternative civil service programme and if so, when that was expected to take its place. She enquired whether institutional measures had been or would be implemented to ensure that delays similar to that in the Levon Ghulyan case were a thing of the past. She also asked what measures were in place to ensure the safety and protection of the civil rights and freedoms of individuals who came forward with information, such as details of the events of 1 March 2008. The Committee had received several reports indicating that victims often failed to report cases of mistreatment by the police for fear of retaliation. It would be useful to learn of any measures that had been put in place to provide additional protection for witnesses who came forward, thus ensuring the confidentiality of complainants. Similarly, she enquired about steps that had been taken to help victims of abuse come forward to report the crimes that had been committed against them, such as those that had taken place at Special School Number 11 in Nubarashen.

37. **Mr. Bruni** asked whether the State party was considering making a declaration under article 22 of the Convention concerning the individual complaints procedure.

The public part of the meeting rose at noon.