



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

Distr.: General
20 November 2015

Original: English

Committee against Torture Fifty-sixth session

Summary record of the 1368th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 17 November 2015, at 10 a.m.

Chair: Mr. Grossman

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Fifth periodic report of China

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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)*

Fifth periodic report of China (CAT/C/CHN/5; CAT/C/CHN/Q/5/Add.1 and 2; CAT/C/CHN-HKG/5; CAT/C/CHN-HKG/Q/5; CAT/C/CHN-MAC/5; CAT/C/CHN-MAC/Q/5)

1. *At the invitation of the Chair, the delegation of China took places at the Committee table.*

2. **Mr. Wu Hailong** (China), introducing the State party report (CAT/C/CHN/5), said that significant progress had been made in developing governance based on the rule of law. Amendments to the Criminal Procedure Law enshrined the principle of respect for human rights, and included specific provisions on prohibiting self-incrimination and the use of illegally obtained evidence with a view to preventing miscarriages of justice. Moreover, the amended legislation contained regulations on coercive measures, investigation procedures and the right to defence. In order to prevent misconduct during the interrogation of suspects, the scope of the audio and video recording system had been expanded, and regulations on the use of the system had been issued by the Supreme People's Procuratorate. In 2013, the system of re-education through labour had been abolished.

3. Amendments to the criminal law included provisions to reduce the number of crimes carrying the death penalty and strengthened protection measures for vulnerable groups.

4. In order to improve judicial accountability, a series of regulations had been proposed to handle cases of malpractice and miscarriages of justice. In 2014, more than 1,000 verdicts had been overturned, including some major cases involving miscarriages of justice.

5. Amendments had been made to the system for filing cases in order to facilitate access to justice. Regulations had been issued concerning criminal complaints with a view to ensuring that cases were reviewed in an open and impartial manner. The Supreme People's Court and the Ministry of Public Security had issued regulations on compensation.

6. Measures had been taken to improve the supervision of law enforcement and judicial bodies. Legal compliance officers had been deployed in front line law enforcement units, and enhanced oversight in detention facilities included quality assessments and targeted remedial campaigns, as well as efforts to prevent bullying and abuse of detainees. Oversight measures extended to monitoring of time limits for criminal detention orders, and the development of an information sharing network in the field of law enforcement.

7. Regular inspections of detention facilities had continued, and "open days" had been held by prisons and other detention facilities. Training for judicial and law enforcement personnel covered the prevention of torture. The training curriculum included the prohibition of the use of violence to obtain evidence and the abuse of detainees.

8. Measures had been taken to protect the rights of lawyers to practise law. In 2014, a national conference had been held on the legal profession, focusing on the need to respect lawyers' rights to perform their work and uphold judicial integrity. Provisions had been promulgated on safeguarding their right to practise law. In adopting the above-mentioned policies and measures, the Government had taken national circumstances and the Committee's recommendations into account.

9. Although certain challenges remained, China was committed to combating the use of torture. The recently adopted five-year plan for national economic and social development had set out a series of targets and principles for development, including respect for the rule of law and more effective human rights guarantees.

10. **Mr. Law** Chi-kong (China) said that the Basic Law of the Hong Kong Special Administrative Region provided a solid foundation for protecting the rights and freedoms of its citizens and other persons. He drew specific attention to the tolerance and restraint shown by the police in 2014 in dealing with protesters, and stressed that police regulations required the use of the minimum level of force necessary to achieve a lawful purpose. He outlined the work of the police complaints mechanism, noting that the number of complaints received by the police had fallen by 26 per cent since the previous year. The police respected the rights of persons in custody; detainees received basic amenities and food and were allowed access to a lawyer. Custody management had improved following a review in 2008, custody search guidelines had been updated, and information for detainees translated into 15 ethnic-minority languages.

11. In 2009, an enhanced screening mechanism for non-refoulement claims had been established. Improvements had included legal aid and interpretation services, as well as an appeal mechanism. In 2012, a statutory Torture Claims Appeal Board had been established. In 2014, the Government had implemented a unified screening mechanism for claims which, to a large extent, complied with the provisions of article 3 of the Convention. In the same year the Government had increased the level of humanitarian assistance provided to claimants, which covered food and a range of other items. Owing to a drastic increase in the number of claimants, the Government planned to review all relevant procedures and legislation in order to expedite the screening process whilst maintaining high standards of fairness.

12. The amended Domestic Violence Ordinance protected former spouses, cohabiting couples, immediate and extended family members, same-sex cohabitants and former same-sex cohabitants. An interdepartmental working group on gender recognition had been set up in 2014 to examine legal issues relating to intersex persons, conduct comparative studies and make recommendations for appropriate legislative reform. The working group had met with a number of stakeholders and planned to hold public consultations.

13. **Ms. Chu** Lam Lam (China) said that the Government of the Macao Special Administrative Region had made every effort to improve its legislative and policy framework. In 2012, the Government had amended the Organic Law on the Commission Against Corruption, an independent governmental human rights monitoring mechanism, in order to consolidate its role as ombudsman, strengthen its function of safeguarding the rights and freedoms of individuals, and ensuring the impartiality, legality and efficacy of public administration.

14. In 2009, legislation had been adopted to ensure access to justice for all, including foreign workers granted special leave to remain in the Region, exchange students and applicants for residency. Legislation had been adopted in 2008 to combat human trafficking and establish a comprehensive mechanism for assisting victims. In 2010, an agreement had been concluded with the Government of Mongolia on combating human trafficking, and the authorities cooperated with various international organizations to combat cross-border crime.

15. The Government had drafted the Domestic Violence Prevention Law, which focused on protection and assistance for victims, and aimed to establish a flexible and efficient mechanism to facilitate cooperation between Government departments and

NGOs, as well as introducing measures to help victims escape hazardous situations as quickly as possible.

16. The Secretary for Security had issued Order No. 19/SS/2009 prohibiting the use of solitary confinement for prisoners aged between 16 and 18. Likewise, the Director of the Legal Affairs Bureau had issued an order stipulating that the Youth Correctional Institution could allocate individual rooms only at night for juveniles who violated disciplinary regulations; during the day they must be allowed to attend classes and other activities together with other young offenders.

17. The Government of the Special Administrative Region of Macao would continue its work to prevent and suppress torture and promote human rights.

18. **Mr. Tugushi** (Country Rapporteur) said that the definition of torture in the law of the State party was not fully compliant with the definition given in article 1 of the Convention. The definition should cover all the elements provided for in the Convention, including the reference to discrimination of any kind. What steps had been taken to adopt a definition that complied with article 1 of the Convention?

19. Under various articles of Chinese law, the prohibition of torture was restricted torture as practised by State agents. What steps were being taken to ensure that other persons acting in an official capacity, or at the instigation of or with the consent or acquiescence of public officials, could be prosecuted for torture, as recommended in the Committee's previous concluding observations?

20. Recent amendments to the State party's criminal law did not address the definition of torture directly and, in its replies to the list of issues (CAT/C/CHN/Q/5/Add.2), the State party had reported that existing provisions of domestic law already covered all aspects of the Convention. Did the State party have any plans to make further amendments to its criminal law in order to broaden the scope of those provisions?

21. The Committee was concerned that the State party's provisions on torture referred only to physical and not mental, torture. The Supreme People's Court had recently recognized the infliction of severe mental pain as an act of torture but had not defined the behaviours that might constitute such an offence, such as sleep deprivation. What steps was the State party taking to ensure that the infliction of severe mental pain or suffering was included as an offence in the Penal Code?

22. The State party had reported that, where interrogation under torture was not conducted for the purpose of extracting confessions, criminal liability might be incurred under the relevant provisions of the criminal law covering, for example, intentional infliction of bodily harm or unlawful detention. Did the State party have any plans to broaden the definition of torture to include other acts that did not amount to extraction of confessions?

23. According to article 18 of the Criminal Procedure Law, the use of torture was a crime and should be investigated by people's procuratorates. He asked the delegation to provide information on the number of reported cases of torture involving Tibetan political prisoners, the number of cases that had been prosecuted and the penalties imposed.

24. Referring to the list of issues in relation to the State party's periodic report (CAT/C/CHN/Q/5/Add.1), he asked what the maximum time was that a person could be held before being brought before a judicial authority. What obstacles stood in the way of bringing mainland practices into line with international standards? He would appreciate statistics on the number of persons who were detained for longer than the permitted time period under international standards. Where an extension of the period of detention was required, what was the procedure for obtaining approval and what

oversight mechanisms existed for that procedure? Were detainees systematically registered?

25. He would like to know what measures had been taken to ensure that all public security facilities had now installed all the electronic monitoring and interview-recording equipment referred to in paragraph 30 of the State party's report. How many detainees were now registered in the case-handling system and what percentage of facilities were linked into that system? Did relatives have access to a detainee's information, including medical information? Was the date of admission recorded in order to ensure prompt access to a judicial authority? He would like to know what penalties there were for failure to keep proper records. Did the Special Rapporteur on torture have permission to visit the State party?

26. The Committee had received reports that detainees did not necessarily have access to an independent physician of their choice. He would like to know what measures were in place to ensure that they did. Were doctors permitted to examine newly admitted detainees out of the sight and hearing of police officers? What mechanism was in place to allow a doctor to make a confidential report without fear of reprisals? He would appreciate an explanation of deaths that had reportedly occurred in police custody, allegedly because detainees had not been able to obtain medical treatment in time.

27. He would like to know what mechanism was in place to enable prompt access to a lawyer of the detainee's choice in the initial interview. He would appreciate information on the type of cases that fell under the category of "crimes endangering State security". In such cases lawyers were required to ask for approval before meeting their clients, and he would like an explanation of the approval procedure; who could approve applications and on what criteria? How many such requests were received annually in the context of crimes endangering State security, how many were granted, how many were denied, and for what reasons? What was the maximum length of time a detainee could be denied access to a lawyer in such cases? Were police officers able to monitor conversations between a lawyer and a detainee in those cases?

28. The Committee had received reports of lawyers refusing to take cases involving police abuse or failing to defend a client because of pressure from the police. What measures were in place to prevent retaliation against lawyers who took such cases?

29. Article 83 of the Criminal Procedure Law permitted notification of relatives of detainees to be restricted where it might hinder the investigation. How was the application of that article monitored in order to prevent abuse by law enforcement officials? How many complaints of failure to notify had been lodged during the reporting period by family members, and with what results? He would appreciate comments from the delegation on reports that during and after the "Jasmine Revolution" a number of dissidents had been held in incommunicado detention for more than three months.

30. Could the delegation provide information on the State party's efforts to ban the use of equipment inconsistent with the Convention, including rigid chairs, electric shock equipment and leg cuffs? The Committee had received reports to the effect that torture was widely used in "black jails", whose existence was denied by the State party. He would like to know what steps the State party was taking to ensure that all detention took place in official institutions and was regularly monitored.

31. What steps had been taken to amend legal provisions that undermined the independence of lawyers, notably article 306 of the Penal Code and article 39 of the Criminal Procedure Law? What measures had been taken to prevent and combat unlawful or unjustified interference of any kind with the work of human rights lawyers, such as their detention or their eviction from court on such grounds as

speaking loudly or defending their clients? What procedures were in place to ensure the impartiality of judges and lawyers?

32. Turning to article 3 of the Convention, he said that, according to reports received, nationals of the Democratic People's Republic of Korea fleeing to China for fear of persecution were considered by the State party to be economic migrants and returned even though they faced torture and possibly death. According to the State party, they had been returned in accordance with a bilateral agreement with the Democratic People's Republic of Korea. Did that agreement then take precedence over the Convention against Torture? What measures were used by the State party's security forces to find and apprehend nationals of the Democratic People's Republic of Korea?

33. **Mr. Modvig** (Country Rapporteur), referring to article 10 of the Convention, said that the Committee would appreciate a full reply to its questions in paragraphs 13 and 14 of the list of issues (CAT/C/CHN/Q/5/Add.1) regarding the training of law enforcement and other officials, and specifically how many in each professional target group were actually trained in non-coercive interrogation techniques, medical detection of signs of torture and non-refoulement. How long did training for medical staff last? How did the State party measure the impact of training on the behaviour of law enforcement personnel?

34. In general, the Committee had noticed that the State party frequently failed to provide the information requested in questions in the list of issues. Was that because the information was considered a State secret? He would like to know what kind of information was subject to disclosure under the Open Government Information Regulation (OGI): did it include information on police and procuratorial investigations, criminal detention and video recordings of conduct at detention centres?

35. Referring to paragraphs 15 and 16 of the State party's replies to the list of issues, he said that he would like clarification of the procedure for investigating deaths in custody. How many times had the procuratorate overturned an appraisal by the prison medical doctor and for what reasons? The Committee would also appreciate receiving the information it had requested concerning the outcome of investigations into deaths in custody. Were there guidelines on informing relatives about an investigation into a death in custody? How often had relatives objected to the procuratorate's conclusions, thus prompting a new investigation?

36. Referring to paragraph 16 of the list of issues, he asked the State party to clarify the criteria used to qualify an illness as "serious" and to grant medical parole. Was that decision purely medical?

37. The Committee had received information that the State party was making it difficult for lawyers to defend cases involving human rights violations. Lawyers' licences were subject to yearly renewal, for example, and lawyers were apparently prone to committing the crime of "picking quarrels" or "making trouble". What criteria were used to determine that a person had committed that crime and what penalties applied?

38. The Committee would appreciate receiving the information it had requested concerning the health of three detainees, Jiang Yuanmin and the Tibetans Khenpo Kartse and Gongpo Tsezin, and the treatment provided to them.

39. According to information received, there were various methods of detention that apparently had no basis in law, with no legal framework for the protection of basic rights. Reported methods were legal education classes, "black jails", illegal house arrest, compulsory psychiatric institutionalization, compulsory drug detention centres,

custody and education, and the *shuanggui* system of internal Chinese Communist Party discipline. The Committee would appreciate comments on the legal basis for those forms of detention, and how they were regulated in terms of judicial review procedures, time limits and procedural safeguards. By what mechanisms did the State party prevent torture and incommunicado detention taking place under such circumstances, and in general, effectively prevent and prohibit interrogation from taking place outside legal detention centres? How many officials or private persons had been prosecuted for illegally operating secret detention facilities and with what result? How many officials or private persons had been investigated for specific offences in relation to the rape of Li Ruirui in 2009, the death of Wang Delan in August 2013 and the death of Li Shulian in 2010?

40. Article 73 of the 2012 Criminal Procedure Law had introduced a new measure whereby a suspect could be placed under residential surveillance at a designated place other than their home. That option could be seen as giving the police more power without proper accountability, and he would like to know why it was necessary and whether basic safeguards relating to arrest, including the right to inform relatives about one's whereabouts, fully applied.

41. According to the State party's replies to the list of issues, solitary confinement could be used when a detainee was deemed a grade 1 security risk. How many detainees were classified as grade 1, and what proportion of the total did that represent? What national standards applied to the use of restraint in police stations during or between interrogations? Why were the so-called "interrogation chairs" referred to in the State party's replies necessary and did any time limits apply to their use? He asked the delegation to provide statistics concerning interrogation chairs available in police stations and their actual use.

42. The State party's opening-up of its criminal justice institutions to wider external scrutiny was commendable, but the Committee would like to know the State party's position on establishing a truly independent monitoring mechanism along the lines set out in the Optional Protocol to the Convention, as a tool to effectively reduce and prevent violations of the Convention.

43. Noting that the figures on complaints received by the procuratorate provided by the State party in its replies to the list of issues were based on complaints made through the hotline only, he requested information about the total number of complaints received from all sources and by all methods for each of the crimes that the State party had indicated as covering the various aspects of the Convention's definition of torture. The Committee had received information that the police often refused to accept complaints, so the State party should consider establishing an independent body to deal with complaints of the use of torture and excessive force by law enforcement officials.

44. How many complaints of abuse had been submitted by detainees and prisoners between 2008 and 2011? How many of those had been investigated, by whom, and with what outcome in terms of disciplinary or criminal sanctions?

45. He asked whether holistic rehabilitation, as defined in the Committee's general comment No. 3, on the implementation of article 14, was available to victims of torture in the State party, and if so, how many had received such rehabilitation. He would appreciate receiving statistical data about redress and compensation measures applied for and granted to torture victims and their families. Did the Law on State Compensation provide for all forms of reparation to victims of torture? Was the right to seek redress subject to the statute of limitations? He would appreciate the delegation's comments on information received to the effect that NGOs put themselves at risk if they provided rehabilitation to victims of torture.

46. With regard to article 15 of the Convention, he asked how often confessions were extracted by torture and how often judges dismissed such cases. Extrapolating from a recent Human Rights Watch study of court verdicts in the State party, he said that there appeared to be more than 1,200 cases per year in which allegations of torture were raised in court. Any such allegations entailed an obligation to investigate, yet, according to the delegation's opening statement, only in 198 cases in 2014 had such allegations led to a decision not to prosecute. Did the delegation consider that a satisfactory proportion?

47. The Committee took note of efforts to systematically record interrogations of criminal suspects on video as an important means of holding law enforcement officials accountable for their actions. In that regard, it would be useful to know who used, monitored and examined those videotapes, whether only random samples of the video recordings were examined and what such examinations focused on. How were police officers prevented from taking suspects out of range of video cameras, subjecting them to torture and then bringing them back to record their confession on tape? Were the times logged strictly?

48. Taking note of the information provided on two of the five cases of confessions allegedly extracted under torture, he invited the delegation to comment on the other three mentioned in the list of issues. Referring to the case of Liu Ping, he asked the delegation whether the medical examination conducted at the detention centre following the interrogation had revealed any injuries. He enquired whether there were guidelines for using medical examinations to exclude illegal evidence, as well as guidelines on medical check-ups of persons entering and leaving detention and the quantity and type of evidence required to rule out the use of torture to obtain a confession. Would a video recording of an interrogation be considered sufficient for that purpose?

49. **Ms. Belmir** asked what role the judiciary played in interpreting the provisions of the Constitution. She expressed concern about the functioning of the country's criminal justice system in general, and the status of judges in particular. At the same time, police officers, who were subject to internal oversight only, seemed to be free to do as they pleased, with ill-treatment, torture and brutality often excused and impunity widespread. In addition, the Ministry of Public Security had greater authority than the Ministry of Justice. A system of administrative detention was in place, but there were no clear provisions on the responsibilities and powers of detention staff, which increased the risk of impunity.

50. She expressed concern that article 73 of the new Criminal Procedure Law no longer required the police to inform family members of the whereabouts of arrested persons or detainees and authorized the police to detain individuals for six months in unofficial, secret places of detention. She invited the Government to review the distribution of powers in China and warned against granting so much power to the police, as it often led to brutality. In conclusion, she expressed concern about the sale of materials used for torture, which had extremely negative consequences for the people concerned.

51. **Mr. Bruni** enquired how the legal provisions aimed at protecting persons in detention centres were implemented in practice. Referring to paragraph 16 of the report, he enquired how public security officials were punished if they violated the revised "Provisions on procedures for handling criminal cases by public security organs". Could the delegation give examples of such violations?

52. Referring to paragraph 93 of the report, he asked the delegation to provide detailed information on the penalties imposed on each of the six public security agents who had been found guilty of the crime of extracting confessions under torture. Could

the delegation provide examples of criminal proceedings instituted against prison staff for violations of prison rules, as well as information on the results of those proceedings?

53. Referring to paragraph 57 of the report, he asked the delegation to inform the Committee about actions taken by supervisory and disciplinary departments with regard to cases of torture, and about any criminal proceedings instituted. He also enquired whether the results of unscheduled inspections of places of detention, referred to in the same paragraph, were made public. Which authority received the reports on those inspections and what was done to follow up the conclusions of the inspections?

54. Referring to paragraphs 66 and 77 of the report, he asked to what authority the “special invited supervisors” were accountable and what actions they took in the event of violations of the rights of detainees. Referring to paragraph 63, he enquired what had been the result of investigations into deaths in custody since the adoption of the relevant regulations in 2011. In particular, precise data on the number of deaths that had occurred in custody from 2012 to 2014 as a result of violence, ill-treatment or torture would be useful.

55. In conclusion, he asked what had motivated the Government to make a reservation under article 20 of the Convention concerning the Committee’s inquiry procedure, and whether the Government would consider withdrawing that reservation.

56. **Mr. Domah** asked what measures the Government took to ensure the independence of the judiciary. Referring to paragraph 13 (2) of the replies to the list of issues, he asked how effective the training for judges and procurators had been. Could the delegation provide statistics on the implementation of the provisions of the Criminal Procedure Law relating to torture? What courts had the training covered? Furthermore, it would be useful to know what sentences had been imposed on perpetrators of acts of torture and whether they had been suspended from duty. What happened to cases in which confessions had been extracted under torture? How many cases had been dismissed on grounds of illegal evidence by various courts and procurators? Had the success of the training been evaluated?

57. He asked how the legal profession was regulated and why State authorities had the power to revoke lawyers’ licences. It would also be useful to know who decided whether a lawyer’s licence should be revoked and whether the principle of due process was respected. He expressed concern at the fact that 23 lawyers were being held in detention.

58. The country’s bar association did not seem to be a professional self-regulated body. The State party should consider letting the courts regulate the conduct of lawyers. Lastly, he asked whether the Government was considering eliminating State control over the legal profession in order to make it truly independent.

59. **Mr. Gaye** stressed the importance of an independent judiciary. There seemed to be political interference in the functioning of the judicial system in China. He asked whether there were statutory rules guaranteeing the independence of judges in terms of recruitment, promotion and sanctions. What guarantees were available to lawyers for the free and independent exercise of their profession?

60. According to information received from NGOs, including Amnesty International, torture was a cause of concern, and widespread impunity was the main reason why acts of torture continued to take place in China. He requested additional information in that regard. How many lawyers were currently being held in detention and on what charges? Further information on the crime of endangering State security, especially given the importance of freedom of expression, would be welcome. Lastly, he

requested information on the nature of the psychological treatment provided to inmates of all prisons, referred to in paragraph 55 of the report.

61. **Ms. Gaer**, referring to the introductory statement, requested information on the number of investigations into, and prosecutions of, cases in which illegal evidence had been collected by officials, including police officers, and also on any disciplinary or other sanctions imposed as a result.

62. She enquired whether there was a refugee status determination procedure for persons who entered China illegally. Since the consideration of the country's previous report, United Nations human rights bodies had received over 100 testimonies of North Koreans who had been forcibly repatriated from China. Testimonies of former prison guards had also been received, reporting torture, arbitrary detention and other crimes. Was China continuing the practice of forcible returns despite the mounting evidence of what happened to those people? How many North Koreans were forcibly repatriated each year? How many of them were women? Given the country's obligations under the 1951 Convention relating to the Status of Refugees and its agreement with the Office of the United Nations High Commissioner for Refugees (UNHCR), why did the Government not allow UNHCR representatives to screen persons crossing the border in the north-east of the country? It would also be useful to know why nothing was done to monitor what happened to those people, given the evidence of torture and abuse upon their return. Furthermore, she requested information on the number, sex and age of North Koreans who had been permitted to remain in China on humanitarian grounds since the entry into force of the Exit and Entry Administration Law in 2013. How many of those people still remained in China and what was their status?

63. She asked whether, in the opinion of the Chinese Government, the criminalization by North Korea of the right to leave was in compliance with international human rights standards and, if not, why the Government was colluding with the North Korean Government by turning people back, given that they faced such severe punishment? Would China agree to international monitoring to ensure that those people were not harmed upon return?

64. The Government's reply to question 23 of the list of issues was incomplete. According to the Government, the case had been closed. However, the Committee had been informed that relatives of disappeared persons and persons who commemorated the Tiananmen Square protests were suffering continuing harassment, that 21 people remained in prison and that the whereabouts of many others were unknown. Numerous people had been arrested for commemorating the victims of the Tiananmen protests. For example, around 150 people had been arrested on the anniversary of the events in 2014. In addition, 7 of the 70 members of the Hong Kong Legislative Council had not been permitted to visit the mainland because of their memorialization of, or comments on, the democracy movement.

65. She requested information on the outcome of investigations into, and disciplinary or criminal proceedings relating to, the alleged excessive use of force by State officials during the suppression of the Tiananmen protests in Beijing in 1989, including the number, whereabouts, sentences, and names of protesters who remained in detention and names of persons who had been detained for organizing activities to memorialize the event on the occasion of its twenty-fifth anniversary. What measures had been taken to obtain redress for victims? Why had several Hong Kong Legislative Committee members not been allowed to travel to the mainland and would they be allowed to do so in the future?

66. The delegation should provide information on the 24 cases of Tibetans referred to in the list of issues. Referring to paragraph 25 of the replies to the list of issues, she

asked the delegation to comment on information received by the Committee to the effect that Ilham Tohti had been denied food on March 21, had survived on water alone for 10 days, and had been put in shackles for 20 days. Furthermore, she asked whether the cases of Tenzin Deleg Rinpoche and Cao Shunli had been investigated. Lastly, referring to question 38 (b), she requested additional information on the clinics that allegedly administered electric shocks to LGB patients and in some cases held them in psychiatric facilities.

67. **Ms. Pradhan-Malla** asked how the independence of the Chinese Supreme People's Court was ensured in practice; whether there was an impartial bar association; whether the Court worked to ensure that the right to remedy was protected and that lawyers were able to represent their clients impartially and independently; and whether judges were appointed in a manner that maintained the independence of the judiciary. What measures would be taken to release lawyers being held in detention and ensure, in practice, that no lawyers were tortured or criminalized?

68. She asked what kind of protection was available through the judicial services for women who had suffered domestic violence and what the conviction rate was for such offences. She also asked what was being done to abolish the practice of forced abortion.

69. Lastly, she asked for more information on cases against extreme Falun Gong members. Would the Government be investigating the serious accusation relating to the execution of organ transplants without informed consent?

70. **The Chair** said that the anti-torture provisions contained in Chinese legislation seemed complex and vague. He emphasized the need for a single definition of torture in order to prevent impunity.

71. He asked whether there was a procedure in place that allowed lawyers to make complaints when they were denied contact with their clients in cases involving the offence of endangering State security. All people had the right of access to a lawyer in accordance with the Convention and he asked what legal safeguards existed for persons accused of that offence. Did defendants also have the right to request a meeting with defence lawyers?

72. Referring to sanctions against lawyers who disrupted court hearings, he wondered whether there was any alternative to the revocation of licences. Lastly, he asked the delegation for clarification concerning cases in which lawyers had had their licences revoked on the grounds that they did not practise law as members of law firms.

73. **Mr. Tugushi** referring to the situation in Hong Kong, asked what types of persons not holding an office listed in the schedule under the Crimes (Torture) Ordinance could constitute a public official for the purpose of prosecuting torture offences. Had any such persons been prosecuted and what steps had been taken to adopt a more inclusive definition of "public official", as recommended by the Committee? The Hong Kong bar association had reported that the offence of torture under the Ordinance did not cover any infliction of pain or suffering effected at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, or on the grounds of discrimination of any kind. Were steps being taken to remedy that situation and ensure that the definition of torture contained in national legislation complied fully with the Convention?

74. Similarly, with reference to the Committee's previous recommendations relating to Macao, he asked what measures had been taken to adopt a definition of "public official" that was fully line with the Convention, to ensure that all the elements contained in article 1 of the Convention, including discrimination of any kind, were

covered by the definition of torture, and to ensure that torture was listed in the Penal Code as a single offence subject to aggravating circumstances.

75. He emphasized that Hong Kong should take steps to strengthen the mandate and independence of the Equal Opportunities Commission, the Privacy Commissioner for Personal Data, the Office of the Ombudsman and legal aid services, and requested more information on how those institutions worked to prohibit torture in an impartial and independent manner.

76. Noting that several bodies had recommended the extension of the Convention relating to the Status of Refugees to cover Hong Kong, he asked the delegation to explain its view that doing so would make the immigration regime liable to abuse and undermine public interest.

77. He requested more information on the recent proposals of the Hong Kong Security Bureau to enhance the unified screening mechanism and the measures taken by that body to consult with UNCHR, the legal profession, civil society and other concerned stakeholders.

78. Noting that detainees were informed of the reason for their arrest as soon as possible, he asked the Hong Kong delegation to clarify what exactly was meant by “as soon as possible”. He asked how the rights of detainees to contact relatives, access legal aid and undergo a medical examination were guaranteed, how detainees in need of medical care were accompanied to hospitals and how the independence of medical examiners was ensured.

79. With regard to arrests made during the public protests of July 2014, he requested more information on the protocol followed by the police and wondered how 39 legal representatives had been able to address the needs of over 5,000 people.

80. Lastly, he requested more information on how the various complaints mechanisms of the Correctional Services Department, the Immigration Department, the Customs and Excise Department and the Independent Commission Against Corruption were regulated.

81. **Mr. Modvig**, referring to the situation in Hong Kong, asked whether training on the Istanbul Protocol was supported by any regulations that called for its use in certain situations.

82. Referring to the responsibility of duty officers in Hong Kong police facilities to monitor detention conditions, he asked whether there was also an independent oversight body that had full and unhindered access to such facilities.

83. Addressing the representatives of mainland China, Hong Kong and Macao, he asked whether corruption was a problem in the criminal justice system and, if so, what measures were being taken to combat it.

84. Statistics indicated that around half of the Hong Kong prison population were either subject to punitive solitary confinement or removed from association with other detainees every year. He requested information on the duration of solitary confinement and the legal safeguards for prisoners, including the right to an independent review of the decision to place them in solitary confinement and access to a medical evaluation. He asked what types of mechanical restraint were legal in Hong Kong and requested statistics relating to their use.

85. It would be interesting to know whether police officers in Hong Kong were required to report the circumstances in which force was used against demonstrators. Were there any other means of regulating the use of force by police in general and, if not, would that issue be addressed? Referring to the excessive use of force by the police during the “umbrella movement”, he asked the delegation to provide data on the

number and types of complaints received by the Complaints Against Police Office (CAPO). Would there be an independent investigation into police conduct during those events? He also asked how many complaints CAPO had received in total during the reporting period, how many had resulted in disciplinary or criminal sanctions, whether the police were obliged to implement the recommendations of the Independent Police Complaints Council, and whether the State party had considered creating a specific category of complaint for cases of torture or ill-treatment by the police. Did victims of torture have an enforceable legal right to rehabilitation in accordance with the Convention?

86. Referring to the situation in Macao, he asked whether any doctors had received training on the treatment of detainees. Noting that no training on the identification and treatment of victims of torture had taken place owing to an absence of qualified trainers, he suggested the recruitment of trainers from abroad.

87. He requested information on the use of solitary confinement in general rather than specifically in relation to juveniles. He also asked for more information on the strength of the electric current released by the electric shock devices worn by detainees during transportation and the degree of pain suffered. Had the State party considered abandoning the use of such devices, given that none had ever been activated?

88. He requested more information on the investigation of the 87 complaints of violence perpetrated by members of the security forces and asked why so many of them had been considered unfounded. He also asked how the 11 complaints of torture committed by police officers had been investigated and how the conclusions had been reached. Lastly, he asked how many communications had been received by the Commission Against Corruption from Macao Prison.

89. Ms. Gaer said it had been reported that the police had fired 87 rounds of tear gas and used pepper spray and batons during peaceful demonstrations by the “umbrella movement”. She asked how many complaints had been filed in relation to those events and whether any of them had led to investigations or convictions. Had any law enforcement personnel been disciplined for having permitted attacks by counterdemonstrators or prosecuted in relation to alleged cases of sexual violence during the protests?

90. It had also been reported that in Hong Kong there had been 300 cases of abuse against domestic helpers within a four-year period. How many of those cases had been investigated and punished?

91. She asked whether the eight activists arrested in China for posting online material in support of the “umbrella movement” had been apprehended on the grounds that they posed a threat to national security. The National Security Law gave a very vague definition of what constituted such a threat in the context of Hong Kong and she requested clarification on that matter.

92. Lastly, she asked all three delegations to comment on reports that seven Chinese citizens who had been intending to travel to Geneva and attend the current meeting had been threatened by the Chinese authorities with negative professional consequences if they were to do so. Those who had defied the orders of the authorities had been detained on the grounds that they posed a threat to national security.

93. Mr. Bruni asked how many torture claims had been received by the Torture Claim Assessment Section of the Hong Kong Immigration Department and how they had been processed. Could the delegation describe the activities of that body and give examples of specific cases it had dealt with?

94. Noting that the duration of punitive solitary confinement in Macao could extend to a month, he highlighted the recommendations of the Special Rapporteur on torture and the “Mandela rules” whereby States should prohibit punitive solitary confinement and indefinite solitary confinement in excess of 15 days. It would be interesting to hear the delegation’s comments on that matter.

95. **Ms. Pradhan-Malla**, referring to the situation in addressing the delegation of Hong Kong in particular, asked whether measures were being taken to address laws or practices that allowed intrusive and irreversible procedures such as forced genital normalization, involuntary sterilization and unethical human experimentation, especially when performed without free and informed consent.

96. She commended Macao on its domestic violence legislation and asked whether it criminalized violence in same-sex relationships. If not, what measures would be taken to address that issue?

97. **The Chair** asked the delegation of Hong Kong to provide disaggregated data on the number of complaints, investigations and prosecutions relating to trafficking cases and information on measures taken to protect victims who had made complaints. In cases where the victims were foreign domestic helpers, were the support services provided available in several languages?

98. He asked whether the definition of rape in Hong Kong legislation had been brought into line with international standards, as recommended by the Committee on the Elimination of Discrimination against Women. Lastly, he requested updated information on the number of complaints relating to domestic and gender-based violence and the outcomes of those cases.

The meeting rose at 1 p.m.