



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

Distr.: General  
23 November 2015

Original: English

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## Committee against Torture Fifty-sixth session

### Summary record of the 1371st meeting

Held at the Palais des Nations, Geneva, on Wednesday, 18 November 2015, at 3 p.m.

*Chair:* Mr. Grossman

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

*Fifth periodic report of China* (continued)

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*The meeting was called to order at 3 p.m.*

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

*Fifth periodic report of China* (continued) (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. **The Chair** invited the members of the delegation of China to reply to the questions raised by Committee members at the 1368th meeting.
3. **Mr. Wu** Hailong (China), noting that China had made great achievements in combating torture and was determined to continue in that direction, said that the size of the country and its population caused particular problems in collecting reliable data. More attention would be paid to that matter in the future.
4. **Mr. Xu** Hong (China) said that, despite the cultural and linguistic issues that hindered the full incorporation of the Convention's definition of torture into legislation, China endeavoured to ensure that national law was in line with that instrument. The different elements of the definition were covered in various laws dealing with, for instance, the extortion of confessions and the use of corporal punishment or disguised corporal punishment. Protection had also been enhanced for vulnerable groups. Regarding the case of Liu Hong, the court had excluded the written records of four of the six continuous interrogations as evidence obtained through "fatigue interrogation".
5. Concerning the establishment of an independent torture prevention and monitoring body, the independence of the procuratorial agencies was enshrined in the Constitution and several laws stipulated their mandate to monitor detention facilities. They were thus fully capable of performing the independent monitoring function.
6. Training on matters related to the Convention was provided systematically to members of the legal and law enforcement systems, including all prison staff. The Supreme People's Court had organized human rights training courses for over 10,000 judges since 2012, and training to combat torture had been provided directly to 24,000 staff of the procuratorial agencies, to 233,000 others in the form of distance learning, and to all of the more than 10,000 prison medical staff. Officers who did not pass the Ministry of Public Security basic examinations dealing with the prohibition of torture or abuse of detainees were not allowed to deal with cases. The prohibition of torture was an important indicator in the quality assessment of law enforcement.
7. Some of the illegal immigrants from the Democratic People's Republic of Korea were economic migrants and could not therefore be subject to the provisions of the Convention relating to the Status of Refugees. Furthermore, China, like many other Member States, had expressed reservations concerning the Commission of Inquiry on Human Rights in the DPRK. An informative article entitled "Why do North Korean defector testimonies so often fall apart?" had been published in the British *Guardian* newspaper. While States parties must fulfil their obligations under the principle of non-refoulement, they should not allow it to be exploited by criminals to escape justice.
8. China would continue to study the question of its reservation to provisions of the Convention, but wished to point out that, although Committee members clearly hoped to gain a better understanding of the situation by asking about specific cases, such

information could not necessarily be found in the short time available. Furthermore, detailed discussion on individual cases would be tantamount to applying the individual communication mechanism under article 22, which China had not accepted, whereas the dialogue was being conducted in the framework of the mechanism under article 19.

9. The Basic Law, the constitutional document of Hong Kong, had been drafted by the National People's Congress, and the right to interpret it was enshrined in the document itself, on the basis of the principle of "one country, two systems". Hong Kong was a Special Administrative Region of China, and the supreme legislative organ of China would not interfere with the exercise of legislative power there.

10. **Ms. Li Xiao** (China) said that, in accordance with the Constitution and relevant legislation, judges acted in full independence, free from any interference in their work. They were appointed on the basis of their qualifications and could not be dismissed, demoted, discharged or punished without legal grounds and procedure. Measures had been adopted to further guarantee the independence of the courts, with prevention and accountability systems at all levels that had led recently to the five cases concerning persons interfering in the administration of justice. The publication of information on the courts' proceedings also helped to prevent interference in judges' independence.

11. Illegal evidence was excluded at any point in a criminal case, not only during the trial. Hence, in 2014, the arrests of 406 persons had been revoked during the examination phase for that reason and a further 198 persons had not been prosecuted. Other cases occurred during the investigation and it was therefore relatively rare for the exclusion of illegal evidence to take place during the trial itself. Furthermore, since the adoption of the revised Criminal Procedure Law in 2012, staff had been made more aware of the need to collect evidence legally, and audio and video recordings of the whole process and the suspect's right to appoint a lawyer from the time of the first interrogation had further reduced the number of cases in which illegal evidence had been produced. Between January 2013 and September 2015, 2,192 persons had been declared innocent because of insufficient or illegal evidence. Further information was available on specific cases: the Supreme Court had re-examined the case of Fan Qihang, had found that the trial procedure had been properly followed and had consequently upheld the death sentence; neither Ly Jiangbo nor his lawyer had raised the issue of torture during his trial; and in the case of Gan Jinhua, four policemen had appeared as witnesses and the video recording had been shown in court.

12. The time limit for a claim for compensation from the State was two years, excluding any period of restriction of liberty. Between January 2013 and June 2015, 6,311 claims had been considered and over 250 million yuan granted in compensation.

13. The articles of criminal legislation that made the destruction or falsification of evidence a punishable offence applied not only to lawyers but to all court staff as well. A further case of a lawyer disrupting court proceedings was that of Li Qinghong, who had violated court discipline, verbally abusing the judges. That could not be considered normal or acceptable in any country. The laws were intended to protect the legitimate rights of lawyers, not their illegal actions.

14. **Mr. Li Wensheng** (China) explained that, if a death occurred in detention, it was reported to the criminal inspection department and investigated immediately, with a post mortem examination conducted when necessary. The individual's relatives should be present and sign the documentation. Where any criminal activity was suspected, a criminal investigation and prosecution should be conducted, by the prosecutor's office if official staff of the detention facility were implicated. Detention facilities generally had medical staff who would conduct forensic appraisals where necessary.

15. The procuratorial agencies had offices in places of detention for monitoring purposes and investigated and prosecuted any cases of officials extracting confessions or evidence through torture or violence. In the case of five police officers convicted of extracting confessions through torture, two had been sentenced to 2 years' imprisonment, two to 18 months' imprisonment and one person to 1 year. That demonstrated that there were no grounds for accusing the Government of not punishing such persons.

16. **Mr. Li Zhongcheng** (China) said that representatives of the people's congresses, the Chinese People's Political Consultative Conference, experts, academics and other members of the community were invited regularly to participate in monitoring visits to places of detention. They inspected all aspects of detention and had discussions with staff and detainees. If any indication of torture was detected, reports were made to the relevant higher-level bodies.

17. The length of detention could be extended legally from 3 to 7 days and exceptionally to 30 days. Requests for such extensions were not approved if they did not comply with the law. Approval was given by the procuratorial agencies if further investigation was required and requests had to be made in a timely manner. If the detainee or his or her relatives believed that such extensions were not justified, they could submit a complaint to the procurator. When suspects were detained, a proper record was kept of the time of imposition of the measure selected and the length of its validity.

18. Medical records were drawn up for all detainees and were made available to next-of-kin with the approval of the public security body. Any falsification of such records was subject to accountability. Doctors on the premises, whether staff or seconded from medical institutions, conducted physical examinations of all persons in detention and signed the report. If they discovered injuries, they were obliged to investigate in accordance with the law and note the outcome. Both the detainees and their escorts also signed the form. Any reprisals against doctors were punishable under the law. A working plan had been issued in December 2014 to improve the medical care provided in places of detention, and health departments would take over responsibility for such care and services by the end of 2016. Prisoners who were ill were treated by on-site doctors, who referred them to nearby hospitals in a timely manner when necessary. Hence there were no deaths in custody due to the lack of access to prompt medical care.

19. The Criminal Procedure Law had been amended in 2012 to remove the need for the investigator to approve a suspect's request for a lawyer. Suspects were informed at the time of their first interrogation or the imposition of a coercive measure of their right to appoint counsel and the possibility of obtaining legal aid. Meetings with lawyers were granted immediately whenever possible or within 48 hours. Legal aid centres were in the process of establishing offices in detention facilities to provide detainees with assistance.

20. To prevent abuse of the exception to the obligation to notify relatives of a person's detention, investigation bodies were monitored by legal compliance departments and a telephone hotline had been established for complaints. Petition departments of the security agencies investigated cases brought to their notice and complaints lodged with the procuratorial agencies. Violations were firmly punished.

21. The serious illnesses mentioned in article 26 of the Regulations on Detention Facilities covered 18 categories, including serious contagious diseases, serious cardiovascular diseases and serious respiratory diseases. The list formed the basis for decisions on medical parole.

22. Solitary confinement was an administrative measure rather than a punishment and depended on the risk posed. Doctors would visit the prisoner twice a day and perform a daily examination; if it was found that the risk had been reduced, the prisoner would be returned to an ordinary cell. Interrogation rooms were equipped with protective devices to prevent injury and attacks. Monitoring capacity had been installed and the whole process, including the use of interrogation chairs, was recorded on audio and video equipment. Hence the use of interrogation chairs could not be equated with torture. Audio and video recordings were standard and had to be submitted to the courts and procuratorial agencies; without them, the interrogation record might be considered illegal evidence. When suspects were admitted to a place of detention, investigators would question them in the interrogation room. Any removal of the suspect from the place of detention for identification or other purposes required the approval of the head of the security or procuratorial agency at or above the county level, and the arraignment licence must be stamped by the place of detention. The prisoner must be escorted by at least two members of staff. On his or her return, an examination would be conducted and the report signed by the guards. If anything abnormal was found, a written explanation was required and an investigation would be conducted.

23. In cases of crimes involving the undermining of national security, lawyers had to apply to the investigating bodies for meetings with detained suspects; decisions on such requests had to be made within three days and could only be denied if there were concerns about obstruction of the investigation or possible disclosure of national secrets. The efforts of the Chinese judicial authorities were aimed at fighting criminal behaviour that truly undermined national security, not at criminalizing free speech exercised in accordance with the law.

24. Residential surveillance at designated locations was an effective component of the State's coercive measures in criminal cases. Under the Criminal Procedure Law, the family of a criminal suspect or defendant placed under residential surveillance was to be informed within 24 hours of the commencement of the surveillance. The people's procuratorates monitored the legality of decisions and enforcement of residential surveillance; the Supreme People's Procuratorate was currently drafting regulations on such monitoring. Under the Narcotics Control Law and the Administrative Procedure Law, persons placed in compulsory isolation for drug rehabilitation could apply for administrative review of the decision. Similarly, persons subject to compulsory medical treatment, or their legal representatives or close relatives, could apply for administrative review of the relevant decision to the Higher People's Court and request that the compulsory medical treatment be stopped. The people's procuratorates monitored the legality of decisions and the enforcement of compulsory medical treatment.

25. The Law on Control of the Entry and Exit of Aliens set out the reasons for refusing entry into China; such decisions were the responsibility of the border inspection offices. The delegation was not aware of any NGO representatives having been prohibited from leaving China to attend the meeting with the Committee in Geneva, and many NGOs were in fact in attendance. Regarding the restriction of the right to personal freedom, the Government's position on the Committee's 2009 concluding observations had been clear. The relevant departments of the Chinese Government performed their duties in accordance with the law. It was important that the members of the Committee should strictly follow their mandate and not politicize the review process.

26. **Ms. Yang Jian** (China) said that the recently adopted provisions on legally safeguarding the right of lawyers to practise law covered the rights to be informed, make complaints and applications, meet with their clients, consult relevant materials,

collect evidence, carry out cross-examinations and defend their clients. The provisions provided for complaints and appeal mechanisms as well as interdepartmental cooperation to ensure that acts infringing upon lawyers' rights could be corrected in a timely manner. The Ministry of Justice and local judicial administrative bodies provided guidance to lawyers and supervised activities but there was certainly no question of "control". The Bar Association, a self-regulatory organization, protected the right of lawyers to practise law and adopted codes of conduct and disciplinary regulations. Lawyers could lodge complaints for infringements of their rights with a specialized body set up under that Association. Lawyers who committed one of the nine acts stipulated in article 49 of the Law on Lawyers or deliberately committed a crime would have their licences to practise law revoked.

27. With regard to rehabilitation as a remedy, the delegation had taken note of the Committee's general comment No. 3. The Government always supported social organizations involved in providing humanitarian assistance and did not impose any restrictions on the rehabilitation services they provided. On the issue of domestic violence, a bill had been considered by the legislature in August 2015. Currently, measures to protect victims of domestic violence included the 110 emergency helpline and domestic violence report centres. In accordance with the Regulations on Human Organ Transplants, all organ donations required the personal written consent of the donor. The allegations concerning the harvesting of the organs of Falun Gong practitioners were baseless rumours. Forced abortions were prohibited: abortions must be carried out voluntarily and in accordance with the law. Abortion on the grounds of foetus gender was a personal choice and not an official policy. Foetal gender identification was not permitted, except for medical reasons. Discrimination against and abuse and abandonment of female infants were also prohibited. China did not view lesbian, gay, bisexual, transgender and intersex (LGBTI) persons as having a mental illness and did not require them to undergo compulsory treatment or be placed in psychiatric hospitals. The LGBTI community did face challenges in terms of social acceptance, employment, education, health and family life, which certainly warranted government attention but did not fall within the scope of the Convention.

28. **Mr. Li Yang** (China) said that the *shuanggui* disciplinary system did not involve arrest or detention, and torture of all kinds was strictly prohibited under the process. Discipline inspection authorities exercised strict management and supervision, with full protection of the right of all parties involved. In the event that individual wrongdoing in the implementation of *shuanggui* resulted in a suspected crime, the criminal liability of the persons concerned was investigated in accordance with the law.

29. **Ms. Jin Chunzi** (China) said that, where possible, the Chinese authorities had provided additional information in the written replies on the Tibetan cases mentioned in the list of issues. There were no cases of political imprisonment, and the allegation of cruel or unfair treatment of suspects or criminals belonging to ethnic minority groups was groundless. Tenzin Deleg Rinpoche had been sentenced to death for his involvement in a bombing and incitement to secession; his sentence had later been commuted to life imprisonment. In July 2015, he had suffered sudden cardiac death, despite receiving immediate medical attention, and his family had been duly informed. In accordance with local custom, his body had been cremated and his ashes had been scattered. His rights and interests had at all times been protected by the relevant authorities.

30. **Mr. Law Chi-kong** (China), referring to Hong Kong, said that the unified screening mechanism for non-refoulement claims lodged on all applicable grounds, including torture and cruel, inhuman or degrading treatment or punishment, had been introduced in 2014. Claimants were provided with legal assistance and interpretation

services throughout the screening process and could lodge appeals with the independent Torture Claims Appeal Board if their claim was rejected by the Immigration Department. All decision makers and legal and medical professionals involved in the process had received training to ensure that they had a proper understanding of international and domestic guidelines and best practices, including the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Between March 2014 and September 2015, the Immigration Department had processed 2,602 non-refoulement claims, but had received many more, which meant that there were now more than 10,000 pending claims. In view of the dramatic increase in the number of claims, the priority was to ensure that screening was carried out in a reasonable time frame so that genuine claimants would be offered protection without delay. The relevant legislation would be reviewed to identify any loopholes that needed to be closed.

31. Regarding the Convention relating to the Status of Refugees, as a small and densely populated region, Hong Kong had to balance the need to maintain a liberal visa regime to facilitate genuine visitors with the need for effective immigration control to safeguard the safety, livelihood and employment of its population. The unique circumstances of Hong Kong, coupled with its economic prosperity, made it particularly vulnerable to the ill-effects of illegal immigration or economic migration by persons seeking a better life. In 2009, for example, the Court of Hong Kong had ruled that recognition granted by the Immigration Department to an illegal immigrant pending removal had provided him with a defence to a charge of engaging in unlawful employment. That ruling, although later overturned by a higher court, had caused an immediate rise of 260 per cent in the number of illegal immigrants intercepted. In order to close the loophole, Hong Kong had urgently introduced amendments to the law, establishing a new criminal offence of engaging in unlawful employment, which had resulted in the number of illegal immigrants being intercepted immediately returning to its previous level. In recent months, syndicates from countries in south and south-east Asia had been suspected of arranging for foreign nationals to travel to Hong Kong under a fictitious asylum visa to lodge non-refoulement claims. The number of claimants from two countries in particular had increased fivefold over the past two years, despite the improvement in sociopolitical conditions in those countries. Apart from abusing the non-refoulement screening mechanism, such acts might also involve serious criminal offences amounting to human trafficking. In-depth investigations were being conducted through different channels. Hong Kong did not see any reason to depart from its position of not applying the Convention relating to the Status of Refugees.

32. The Hong Kong Government spared no effort in fighting the crime of human trafficking. Well-established, multifaceted legislative, administrative and other measures were in place to combat the phenomenon, covering enforcement and prosecution, victim identification and protection, prevention and international cooperation. Between 2010 and 2014, eight syndicates had been successfully prosecuted and sentenced to up to 36 months' imprisonment. In 2015, two human trafficking syndicate cases had been identified, resulting in the arrest of 16 persons. The Hong Kong Police regularly organized interdepartmental intelligence exchanges and joint investigations on trafficking activities. A checklist had been developed to help the police effectively detect potential victims, and hundreds of officers underwent special training every year. Victims were provided with a range of free assistance, including shelter, food, counselling and medical services, as well as support for participation in legal proceedings, including witness protection, extension of stay, waiver of visa fees, and immunity from prosecution.

33. Under the Prison Rules, any person in custody who was determined to have committed an offence, such as fighting or disobeying an order, could, following a disciplinary hearing, be placed in solitary confinement for up to 28 days. In certain circumstances, individual prisoners could be removed from association with other prisoners, for no more than 72 hours, in order to ensure the maintenance of good order. In many cases, removal from association with others was carried out at the request of the prisoners themselves for their own protection. Removal from association lasting more than 72 hours had to be reviewed by a board made up of a superintendent, a medical officer and a psychologist; the commissioner of correctional services could order further removal for a period not exceeding one month at a time. Of a maximum prison population of 19,652, there had been only 2,715 cases of solitary confinement and 1,117 cases of removal from association in 2014. The average duration of solitary confinement had been 7.45 days, while 63 per cent of cases of removal from association had not exceeded 72 hours. Mechanical restraints could be used only to avoid self-harm, injury to others or damage to property, and for no longer than 24 hours, unless by written order of a visiting justice and the commissioner of correctional services.

34. **Mr. Tam Chak-hang** Henry (China), referring to Hong Kong, said that the rights of freedom of assembly, procession and demonstration were enshrined in law. More than 6,000 public meetings were held in Hong Kong each year and the police balanced the facilitation of public meetings with the need to reduce their impact on other members of the public and to ensure public safety and order. On 2 July 2014, 511 persons had been arrested for holding an illegal blockade of major roads in a central business district. Persons detained by the police were entitled to seek legal assistance and all persons arrested in that incident had been permitted access to legal representation. Police records indicated that 233 meetings had been held between the persons arrested and their legal representatives. All persons arrested had been released on the same day, subject to certain conditions.

35. The illegal “umbrella movement” had posed a serious challenge to law and order between September and December 2014. Protesters had blocked major roads in three business districts and some had charged police cordons. The police had shown significant restraint throughout the 79 days of protest, during which 130 police officers had been injured and medical treatment had been provided to 220 protesters. The police were conducting an internal review of activities during the preparatory, operational and post-operational phases of its response.

36. Complaints about the police were handled in a fair and impartial manner by the two-tiered complaints system. Since the establishment in 2009 of the Independent Police Complaints Council (IPCC), which monitored the work of the Complaints against Police Office (CAPO), 80 per cent of complaints about the police had been submitted directly to CAPO — indicating a high level of public confidence in the system. A report on each complaint open to investigation was submitted by CAPO to IPCC, which could order a new investigation if it was not satisfied with the findings and could bring specific cases to the attention of the Chief Executive. More than 2,000 complainants had filed complaints relating to the umbrella movement, of which the majority came from persons who had followed the protest online or through media reports. Only 177 of those complainants had been directly involved in the protest. Investigations had been completed for 151 complaints and the findings of CAPO had been endorsed by IPCC in 104 cases. None of the complaints investigated had been substantiated.

37. Strict guidelines regulated the use of force by the police. Only the minimum level of force required was permitted, and warnings and an opportunity to obey police orders were provided prior to the use of force wherever possible. Force was not used



when protesters expressed their views peacefully and followed police advice. Any use of force in the course of policing duties was reported to the individual officer's supervisor, who would investigate whether the use of force had been appropriate.

38. **Mr. Tugushi** (Country Rapporteur), addressing the delegates representing Hong Kong, requested clarification of the definition of torture, since provisions allowing the defence of lawful authority, justification or excuse in cases of torture had not been abolished, and asked whether the law would be amended to bring it into conformity with the Convention. He asked whether the unified screening mechanism for non-refoulement claims had been fully implemented and, if not, which aspects of the system were pending and when it would be fully functional. In light of a claims approval rate of less than 1 per cent, the delegation should clarify how a genuine and substantial risk of torture or ill-treatment was defined and what measures were being taken to ensure that the criteria used to determine a substantial risk were not excessively strict. He asked whether new claimants at risk of domestic violence or violence based on their gender, disability or sexual orientation would meet those criteria and whether the immigration department made public redacted data on non-refoulement claims and decisions and, if not, why not. He requested statistical information on the countries to which persons had been returned following failed non-refoulement claims under the unified screening mechanism, how many had returned voluntarily, how many had been returned by the Government and whether the Government monitored the well-being of returnees to ensure that they were not subjected to torture or ill-treatment.

39. Regarding Macao, he requested information on the requirements for attaining refugee status and how the Government ensured that those requirements were not excessively strict. The delegation should state whether, since 2005, any persons had been deported to the Democratic People's Republic of Korea and, if so, whether they had been screened to assess their risk of being subjected to torture on their return, and whether any special procedures had been introduced to identify immigrants in an irregular situation who would be exposed to a substantial risk of torture if deported.

40. Concerning mainland China, the delegation should indicate whether any persons had been extradited to face charges of torture or ill-treatment and whether there had been any cases during the reporting period in which jurisdiction had been established over a citizen or foreign national accused of torture or ill-treatment in accordance with articles 7, 8 and 9 of the Convention.

41. Given ongoing negotiations on the surrender of fugitive offenders and transfer of prisoners between mainland China and Hong Kong, he asked whether, to date, Hong Kong had received any requests to transfer or surrender persons and whether an interim procedure had been introduced for that purpose. Furthermore, would the future agreement on surrender and transfer cover all offences listed under section 3 of the Crimes (Torture) Ordinance and would its terms be publicly disclosed? It would be useful to know what procedures were followed on receipt of an extradition request.

42. Given that criminal penalties in Macao were generally less strict than those applicable in mainland China or Hong Kong, he wished to know whether Macao permitted the transfer of persons for acts that were not criminalized in Macao or for offences that, unlike in Macao, were punishable by the death penalty or life imprisonment in China and Hong Kong respectively.

43. With regard to the umbrella movement, an update should be provided on the status of investigations, including the consequences for the police officers involved, into an incident in which a man arrested on the street had been punched and kicked by seven police officers. Information should also be provided on investigations into the alleged firing of 87 rounds of teargas and use of pepper spray and truncheons, and on

the number of protesters prosecuted and convicted and the number who remained in detention. He asked whether there were plans to bolster the authority of IPCC to allow it to review police misconduct and issue policy recommendations, and whether internal regulations on police conduct would be enshrined in legislation, in order to render them legally binding and make them available for inspection.

44. **Mr. Modvig** (Country Rapporteur) asked the delegation whether statistics that had not been provided to the Committee, particularly those on the death penalty, were indeed not available or whether the delegation simply did not wish to share them. In the latter case he would appreciate an explanation of the delegation's reasons. He wished to know whether it was a requirement to apply the Istanbul Protocol when investigating alleged cases of torture; how the procuratorial bodies maintained full independence from law enforcement bodies; and whether the State party was considering the establishment of a national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

45. Information would be appreciated on the procedure for ensuring that cases of enforced confession were investigated and, if the allegations of torture had merit, prosecuted. He asked how many investigations into torture had been launched as a result of the 198 court decisions rendering inadmissible confessions extracted by torture. The State party should indicate whether it intended to exempt cases of torture and ill-treatment from the two-year statute of limitations on compensation. The delegation should state how many of the 6,311 cases in 2014 in which financial compensation had been awarded had involved torture and ill-treatment and whether the Law on State Compensation provided for other forms of reparation. A figure should be provided for the total number of complaints of torture submitted to the authorities during the reporting period. Further details should be given on the bodies competent to investigate torture discovered by doctors and how those bodies handled such cases. He asked whether medical parole was granted solely on the basis of medical considerations, or whether issues of security were also taken into account.

46. He enquired how many detainees and prisoners were classified as Grade I substantial security risks. It would be useful to know whether there was a limit on the use of interrogation chairs, why interrogation chairs were deemed necessary and whether there was a limit on the length of interrogations. He asked whether it was compulsory to report the use of restraints on persons in compulsory isolation drug treatment centres, whether monitoring mechanisms were in place for those centres and whether it was necessary to go to court to overturn a decision to place a person in such a centre and, if so, how many appeals against those decisions had been filed. In addition, the delegation should indicate whether that procedure differed from the procedure for persons placed in treatment under the health-care system.

47. Information should be provided on the criteria for establishing the crime of affray (brawling) and the applicable punishment. More information should be provided on places of detention that were replacing re-education-through-labour camps, particularly with respect to the legal safeguards applicable to persons placed in those institutions.

48. With regard to Hong Kong, the delegation should clarify whether it was correct that close to one third of prisoners were sanctioned with solitary confinement. He asked whether there were plans to introduce an independent body to monitor the use of restraints and force by the law enforcement authorities, since the system in place did not seem to be fully independent.

49. **Mr. Bruni** asked for clarification of the penalty established in law for extorting a confession by torture. The delegation should explain whether the bodies that

monitored places of detention reported to a higher authority, what kind of recommendations were issued by those bodies, what follow-up was provided to those recommendations and whether the reports and recommendations were made public. Information should be given on the detention regime for prisoners on death row.

50. **Ms. Belmir** noted the importance of the independence of judges and expressed concern about the alleged practice of sentencing defendants to death following very brief trials. The police needed new guidelines and training on how to handle persons taken into custody. She asked whether the vulnerability of persons with disabilities was taken into account in cases where they were detained by the police, whether they were able to access required medication and whether the delegation considered that persons with mental disabilities could be held criminally liable.

51. **Mr. Domah** asked who resolved disputes between the court and the Bar about lawyers. He wished to know whether legal professionals were able to act against unfair arrests and detention in order to ensure that citizens were treated fairly and all were able to exercise their profession without fear or favour. The delegation should explain how members of the legal profession were appointed and by whom, and whether most members of the legal profession were pro-Government. He wished to know whether due process was observed when a lawyer's licence to practise was revoked. Alternative information before the Committee indicated that citizens were unable to access the courts and thereby the remedies established in law. He asked whether citizens enjoyed open access to the courts and could appeal breaches of the Constitution in court.

52. **Mr. Gaye** requested clarification of the statutory guarantees applicable to judges and the legal system that had been introduced to allow lawyers to practise their profession independently. Information from the State party indicated that political-legal committees were responsible for coordinating legal bodies, although they did not participate in inquiries and had no impact on judicial decisions. He asked why judges, in particular, required coordination by those committees and who sat on such committees.

53. **Ms. Pradhan-Malla**, commending the State party on the development of legislation on domestic violence, asked whether the legislation included psychological violence and whether it provided broad protection to victims and, if not, whether provisions in those aspects could be incorporated into the bill. She wished to know whether sanctions were in place for the use of coercive measures to implement the demographic policy and whether victims of such measures received any redress, compensation and rehabilitation. She also asked how the State party reconciled forced or unnecessary surgery on intersex persons with the fact that being a member of the LGBTI community was not an offence.

54. Regarding Hong Kong, she asked how the Government ensured that gender recognition measures complied with the non-derogable obligations under the Convention; whether the Government collected data on the impact of genital normalization surgery on children and, if so, how frontline medical professionals were sensitized to the issue; whether the law on human trafficking covered forced labour; whether victims of forced labour continued to be prosecuted for illegally residing in the country; and whether those who were permitted to stay for the purposes of legal proceedings were also permitted to work.

55. Concerning Macao, she wished to know whether violence within intimate relations other than marriage was considered an offence; whether efforts were being made to improve the investigation of trafficking cases, especially trafficking for the purpose of forced labour; whether there was a programme to address child sex

tourism; and whether victims who might require international protection were referred to the asylum system.

56. **The Chair** asked whether consideration might be given to adopting an explicit definition of torture. He pointed out that, although the number of meetings between suspects and their defence counsel had grown dramatically, deficiencies remained, namely that a meeting request could come only from the lawyer and not from the suspect and that the confidentiality of conversations between suspects and their counsel was not always respected. He commended the State party on the enactment of the Exit-Entry Administration Law, which introduced prohibitions in respect of the treatment of refugees, and welcomed the adoption of the National Human Rights Action Plan. Referring to article 309 of the Law on Lawyers, he cautioned the State party against overly broad definitions that left too much room for interpretation. He asked what was meant by the statement that lawyers did not practise as members of law firms and whether the leadership of Bar Associations was elected by the members. He invited the delegation to explain how solitary confinement was used as a management tool.

*The meeting was suspended at 5.25 p.m. and resumed at 5.40 p.m.*

57. **Mr. Kan Ka-fai** (China), referring to Hong Kong, said that a subcommittee had been established to review legislation regarding sexual and related offences, including rape. It had recommended that the offence of rape should cover penile penetration of the vagina, anus or mouth and should not preclude surgically constructed genitalia. The Law Reform Commission would publish a report upon completion of the review. The Government had set up an interdepartmental working group to consider measures to protect the rights of transgender persons. The working group would consult widely before finalizing its recommendations to the Government.

58. **Mr. Cheung Doi-ching** (China), also referring to Hong Kong, said that the Crimes (Torture) Ordinance stipulated that public officials, including law enforcement officers, or any person acting in an official capacity, such as medical professionals, could be prosecuted for torture. The Ordinance also punished acts of torture committed with the consent or acquiescence of a public official and addressed torture on the ground of discrimination. The defence of lawful authority was intended to cover instances where reasonable force was used to restrain a violent individual. The Ordinance was, therefore, in line with the Convention.

59. The Government took very seriously cases of foreign domestic helpers who were allegedly abused or had their wages withheld. In the case of Erwiana Sulistyaningsih, the labour department and the police had sent a team to Indonesia to take her statement and explain her rights and the assistance with which the Hong Kong Government could provide her. Legal proceedings had been initiated against her former employer, who had been sentenced to 6 years' imprisonment and a fine of \$15,000. Offences against foreign domestic helpers were monitored by a joint investigation team. Less than 15 per cent of such offences were committed by employers.

60. Human rights and legal safeguards were fully protected under the law, including the Basic Law and the Hong Kong Bill of Rights Ordinance, and by various independent organizations, such as the Equal Opportunities Commission, the Privacy Commissioner for Personal Data and the Ombudsman. Health-care professionals took a multidisciplinary, individualized approach to intersex babies. Any decisions were taken with the parents' informed consent.

61. **Mr. Law Chi-kong** Joshua (China), continuing the replies concerning Hong Kong, said that the unified screening mechanism had been fully implemented and steps were being taken, in consultation with stakeholders, to further enhance it,

especially by speeding up processing. The low rate of acceptance of refugee claims was due to the fact that most claimants were not genuine asylum seekers. Nevertheless, all claims were processed in accordance with the highest standard of fairness. The Torture Claims Appeal Board was independent from the Government. All acts defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), such as physical abuse, unlawful custody, child abduction and exploitation, illegal employment and withholding of wages, were covered in various pieces of domestic legislation. The rate of solitary confinement was not high in proportion to the total prison population.

62. Replying to questions about the illegal umbrella movement, he said that it was important to put the events in proper perspective. The movement had posed serious challenges to law and order, major blockades in the business district and near government premises had been hugely disruptive to essential traffic and over 130 police officers had been injured. Given the circumstances, the police had exercised a high level of restraint. In the case of the protester who had been beaten following arrest, the investigation had been fair and impartial and seven police officers had been charged with causing grievous bodily harm with intent, while the complainant had been charged with assaulting a police officer and impeding police operations.

63. **Ms. Chu** Lam Lam (China), referring to Macao and more particularly the definition of torture, said that the Government was discussing a review of the Penal Code. Over 300 cases of domestic violence had been brought to the police, but there were no data on the outcome of legal proceedings. Judicial corruption was punishable under criminal law. Senior officials were required to declare their assets and those of their spouses, as well as any outside income. A series of seminars had been held to raise awareness among public officials, and an integrity code for the public service was under discussion. The 87 complaints of violence committed by members of the security forces had been thoroughly investigated by the public prosecution service and the cases had been closed for insufficient evidence. Between 2005 and 2015, over 15 internal investigations had been launched as a result of cooperation between Macao prison and the Commission against Corruption, seven of which had led to sanctions. Most of the cases had also gone to court, with six resulting in prison sentences.

64. Juvenile offenders placed in individual sleeping quarters and prisoners in solitary confinement took part in normal activities with other inmates. No juvenile offenders at the youth correctional institution had been placed in individual quarters since 2014, and isolation measures were not applied to offenders between 16 and 18 years of age. A juvenile could be segregated only if he or she represented a health risk, a situation that had occurred only once between 2009 and May 2015. The prisoner had been seen by medical staff and a social worker and had received regular visits from family and friends. Stun cuffs were a preventive measure used during prisoner transports. In an emergency, prison guards could remotely activate the cuff which would release a three-second electric current, causing partial paralysis to the leg. There had been no complaints about the use of the device.

65. **Mr. Xu** Hong (China) said that, given the status of Hong Kong as a special administrative region, the transfer of fugitives from there to the mainland constituted internal cooperation, not extradition, and was provided for in the Basic Law. While China had various departments responsible for protecting human rights, the Government would further consider establishing a national human rights institution. Part of the problem with defining torture in domestic law was the fact that the word for torture in Chinese was more restrictive and translated as “penalties”. Nevertheless, the topic was dealt with comprehensively across various provisions, and China remained open to dialogue with the Committee on any aspects it considered as inadequately addressed. He assured the Committee that officials who extracted

information through torture were severely punished. The political-legal committee was a coordination body of the Chinese Communist Party, not of the Government.

66. **Mr. Li** Zhongcheng (China) said that, pursuant to the Constitution and penal procedural law, the procuratorates supervised prisons and carried out unscheduled visits to facilities.

67. **Mr. Li** Wensheng (China) said that interrogation chairs were used to prevent detainees from escaping, attacking others or self-harming and were padded for comfort and safety.

68. **Mr. Wu** Hailong (China) said that the Committee's pertinent and constructive suggestions would be examined carefully in the light of the country's specificities. China looked forward to an objective, impartial and professional evaluation of its implementation of the Convention and stood firm in its commitment to honour its obligations in that regard. He invited the Committee members to visit China at their convenience.

69. **The Chair** thanked the delegation for the information it had provided and stressed the importance of the participation of civil society and academia in the dialogue.

*The meeting rose at 6.20 p.m.*