



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

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## Committee against Torture Fifty-eighth session

### Summary record of the 1443rd meeting\*

Held at the Palais Wilson, Geneva, on Tuesday, 2 August 2016, at 3 p.m.

*Chair:* Mr. Modvig

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\* No summary record was issued for the 1442nd meeting.

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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)*

*Second periodic report of Mongolia (CAT/C/MNG/2; CAT/C/MNG/Q/2 and Add.1 and 2)*

1. *At the invitation of the Chair, the delegation of Mongolia took places at the Committee table.*
2. **Mr. Erdenebat** (Mongolia) said that his Government had adopted a National Action Plan to ensure the implementation of the recommendations made by the Committee following the initial report. Amendments made to the Criminal Code in 2015 attempted to define the crime of torture in a manner consistent with article 1 of the Convention, set out the punishments that would be handed down for that crime, and established the criminal responsibility of any accomplice involved in its commission. The new Criminal Code contained a provision stating that, in certain circumstances, detainees would have the right to choose a lawyer and to inform family members or other appropriate persons of their situation. Furthermore, an Act had been adopted to ensure that free legal assistance would be provided to those who could not afford it. As a result, 47 State lawyers were currently working at legal aid centres in Mongolia. The new Criminal Code also established criminal responsibility both for persons who committed illegal acts and for their superiors.
3. Mongolia had acceded to the Second Optional Protocol of the International Covenant on Civil and Political Rights and had abolished the death penalty de jure following the moratorium established in 2010. As a result, no one had been sentenced to capital punishment since that year.
4. In 2001, the National Human Rights Commission of Mongolia had been accredited as an institution in compliance with the Paris Principles. A new bill stated that the Commission was an independent, impartial organization that would ensure implementation of the rights and liberties provided for in the Mongolian Constitution. The bill would be further developed to give the Commission a role in preventing torture. It was hoped that the new parliament elected in June 2016 would adopt the bill in the near future.
5. Chapter 8 of the new Criminal Code stated that punishments imposed to minors should be appropriate to their age, physical development and health, among other factors. Under the new law, efforts would be made to prevent recidivism and detention would be used as a punishment only in cases of extreme necessity. Minors would be detained separately from adults.
6. In response to the concern previously expressed by the Committee over the issues of rape, domestic violence and sexual violence in Mongolia, the definition of rape had been broadened, custodial sentences of between 1 and 5 years had been established for offenders, and the crimes of sexual exploitation and sexual harassment had been incorporated into the Criminal Code. New legislation had also defined the crime of domestic violence and revised the law on combating that crime, creating a legal framework that addressed the issue in all its complexity. The new laws would enter into force on 1 September 2016.
7. An Act to combat trafficking in human beings had been adopted in January 2012 and a National Action Plan to tackle that crime had been developed by the Ministry of Justice. The new Action Plan complemented a previous plan to protect women and children from sexual exploitation and added a number of new measures that addressed labour exploitation, forced marriage, the adoption of children and trafficking in human organs.
8. The new Criminal Code defined the crime of labour exploitation and a National Action Plan, initiated in 2011, aimed to eliminate the worst forms of child labour. However,

the issue of the corporal punishment of children continued to cause concern. In order to tackle that problem, a 24-hour hotline had been set up, surveillance cameras had been placed in certain kindergartens and schools, and the corporal punishment of children had been criminalized under article 16 (7) of the new Criminal Code.

9. The Code of Criminal Procedure contained a new article that prevented the police and other law enforcement agencies from investigating allegations of torture made against their own officers. Moreover, efforts continued to be made to establish a national preventive mechanism under the Optional Protocol to the Convention against Torture. The National Human Rights Commission of Mongolia was considered to be the most appropriate body to fulfil that role.

10. Under articles 388 and 389 of the Code of Criminal Procedure, victims of torture had the right to monetary compensation for the harm they had suffered. Between 2008 and 2014, 137 persons had received compensation amounting to approximately US\$ 600,000.

11. A new Act on Gender Equality prohibited gender-based discrimination in various public spheres and designated the proportion of posts to be held by women in ministries, agencies and local government bodies. As a result of that Act, 39 complaints of sexual harassment in the workplace had been referred to law enforcement agencies. The new Criminal Code also prohibited discrimination based on sexual orientation and gender identity and established punishments for persons convicted of that crime.

12. **The Chair** (Country Rapporteur) said that there were good reasons for bringing the definition of the crime of torture into line with article 1 and welcomed the efforts made by Mongolia to remedy the problems concerning the definition of torture that had previously been identified.

13. He asked whether the amendments made to the Criminal Code would ensure that all public officials were liable for the crime of torture; why article 21 (12) of the Code did not contain any reason based on discrimination of any kind or any other purposive elements of torture, such as coercion and intimidation; whether the definition of torture included command responsibility; whether attempts to commit torture were criminalized under the new Code; whether article 21 (12) of the Code constituted a separate offence of torture, as required by the Convention; how monetary issues could be considered compatible with the seriousness of the crime of torture; what additional measures were available to ensure that such penalties did not create a climate of impunity; and whether a statute of limitations existed for the crime of torture.

14. With regard to article 2, he asked whether all persons who had been deprived of their freedom were entitled to a lawyer from the moment of their arrest; whether detainees could inform a relative immediately after their arrest; and whether all detained persons had access to a free medical examination. The State party should also indicate whether the rights in question were both enforced in practice and established in law and should cite the relevant Mongolian legislation.

15. In its replies to the Committee's list of issues, the State party had indicated that 726 detainees had had the services of a lawyer and that 283 detainees had received free legal assistance. He asked whether the figures in question corresponded to those provided in paragraph 2 (b) of the replies to the list of issues and whether that meant that only 17 per cent of detainees had actually received legal assistance.

16. He asked what rules the new Code of Criminal Procedure had defined in relation to the right to a judicial review; how long a person could be detained before being brought before a judge; and whether any exemptions applied to particular detainees, such as persons suspected of a terror-related crime.

17. In the light of the human rights reports he had received, he asked whether any measures had recently been taken to ensure that police officers and investigators informed detainees of their rights, including the right to seek legal assistance; whether any written guidelines on that subject were given to police officers; what the consequences would be if a police officer failed to inform a detainee of his or her rights; and whether any officers had been disciplined for neglect in that regard. On the subject of legal aid, he asked what percentage of the suspects who required legal aid actually received it.

18. He asked what justifications there were for detaining suspects in places that were far from their place of residence; what obstacles prevented such persons from being detained in more accessible locations; and what financial support was given to NGOs and bar associations which provided free legal assistance to detainees in remote areas.

19. On the subject of ending impunity, the report stated that the Office of the Prosecutor General supervised arrests, detention and punishments and would ensure that they were carried out in accordance with the law. He would welcome more information on the methods used in the supervision process; the number of resources allocated to it; the number of visits that had taken place during the reporting period; the number of visits that had taken place without notification; and any tangible results achieved by the process. He also asked what impact the establishment of a national preventive mechanism would have on the supervision carried out by the Office of the Prosecutor General.

20. On the subject of pretrial detention, he wished to know what impact the recent adoption of guidelines and regulations had had on that practice; whether all pretrial detentions were based on court orders; what proportion of suspects were detained in relation to those who remained free while investigations took place; and what the average and maximum times spent in pretrial detention were.

21. Noting that the Code of Criminal Procedure had been changed in 2014 to create, inter alia, a new unit which investigated crimes committed by judges, prosecutors and police officers, he asked how that unit could be considered independent when its investigators reported to the General Police Department and to the Prosecutor General. The Committee was also concerned to note that the functions of the investigation unit of the Office of the Prosecutor General had not been transferred to the Independent Authority against Corruption when the former body had been dissolved in 2014. Also, amendments to the Code of Criminal Procedure had placed investigation of the crime of torture under the jurisdiction of local police units, resulting in a number of cases being dropped or investigated ineffectively. In the light of those concerns, he asked the Committee for details of the specific functions of the Independent Authority against Corruption and of the Investigative Division of the General Police Department in relation to the prevention, investigation and prosecution of torture. Additionally, he asked for information on: the financial and human resources allocated to the two bodies; the number of complaints of torture or ill-treatment investigated by both bodies since 2014; and the outcome of the investigations.

22. The Committee had asked Mongolia to provide information on the measures taken to ensure that confessions extracted under torture were not used as evidence in judicial proceedings unless the case concerned an allegation of torture; to cite the number of cases in which confessions made under torture had been rejected by the courts and the number of cases in which evidence had been used against a person accused of torture; whether video and audio recordings were made in places where torture was likely to occur; and whether the Government provided the necessary human and financial resources required for that purpose. In response, Mongolia had stated that a number of sites were monitored by surveillance cameras located in one particular detention centre and that some provinces had equipped rooms specifically for the purpose of questioning suspects.

23. Although several relevant amendments had been made to the Criminal Code, it did not fully prohibit the admission as evidence in court of statements and confessions obtained under torture and ill-treatment. The Committee would like to know whether any further legislative amendments had been proposed to prohibit the admission of statements and confessions obtained under torture and ill-treatment as evidence in court, and whether, in the existing legislative framework, statements and confessions obtained in the absence of the lawyer of the accused person or without his or her consent were automatically declared inadmissible. It would also be helpful to know whether any of the 29 detained persons who had made complaints of torture or ill-treatment in 2013 had been convicted on the basis of evidence allegedly obtained under torture or ill-treatment.

24. The Committee would like more information on the National Human Rights Commission. In particular, it would be helpful to know: whether its independence had been strengthened; whether the procedure for the appointment of new staff members was sufficiently transparent; whether it had the power to conduct unannounced visits of places of detention and investigate complaints of torture and ill-treatment; whether it ensured that its staff received appropriate training; and whether it ran awareness-raising campaigns for the general public. Could the delegation also inform the Committee of the current annual budget of the National Human Rights Commission and comment on reports that it had recently been reduced? It would be helpful to know how the Commission received complaints of torture and ill-treatment.

25. The delegation should also provide more detailed information on the 29 complaints of torture mentioned in paragraph 61 of the State party's report (CAT/C/MNG/2): which law enforcement agencies had been involved; how many of the complaints had been investigated; which body had overseen the investigations; and whether they had resulted in any prosecutions, convictions and sanctions. Were any bodies other than the National Human Rights Commission and the investigative unit of the Office of the Prosecutor General mandated to receive such complaints? The table provided in appendix 6 to the State party's report gave the impression that, of the 1,151 complaints investigated over the period 2007 to 2013, 271 had involved torture, that 35 criminal cases had been initiated as a result of those 271 complaints, and that 32 law enforcement officials had ultimately been indicted. Could the delegation confirm that the Committee had understood the table correctly and, if it had, what had been the outcomes of the 32 indictments? The Committee would also like to know whether the National Human Rights Commission had the power to recommend measures of redress.

26. The delegation should also comment, with specific reference to torture, on what had been achieved over the period 2012 to 2016 and what was planned for the period 2017 to 2021 under the Government's National Action Programme on Human Rights. The Committee would like an update on the situation of the two persons sentenced to death in 2015 and more information on the situation of prisoners on death row in general. What were their conditions of detention and had any of their sentences been commuted?

27. The Committee would also appreciate an update on the implementation of the recommendations made in paragraphs 20, 21 and 26 of the Committee's previous concluding observations (CAT/C/MNG/CO/1), which had concerned violence against women, trafficking in human beings, and persons with mental disabilities and psychological problems respectively. Additionally, it would be helpful to know whether any training courses on the prevention of trafficking in human beings were run for law enforcement officials, investigators and prosecutors. The Committee would also like the delegation to provide the information requested on the number of persons who had been expelled, deported or extradited from the country and on the training provided for law enforcement and immigration officials on international human rights law. Did the State party assess the merits of each individual case when determining its non-refoulement obligations? It would

be helpful to know whether explicit reference to the State party's non-refoulement obligations would be made in the new Criminal Code. Were deportation orders reviewed by the courts and were automatic suspensions granted for those who appealed them? How did the State party ensure that foreign nationals who were deported on grounds of poor mental health were not in fact suffering from the after-effects of torture or ill-treatment?

28. **Ms. Racu** (Country Rapporteur) said that the Committee would like to know whether the training programmes for judges, prosecutors, court officials, lawyers, and law enforcement and prison officials on the provisions of the Convention, in particular the absolute prohibition of torture, were mandatory and whether training programmes on the prevention of torture were mandatory for all law enforcement officials. It would also be useful to know whether training programmes in line with the Istanbul Protocol were organized for all officials involved in the documentation and investigation of torture, whether the effectiveness of those programmes had been assessed and, if so, whether such assessments had led to a revision of the training methods employed. Could the delegation provide any concrete evidence of the effectiveness of those programmes?

29. In the light of the recommendations made in paragraph 15 of the Committee's previous concluding observations, information on the training programmes for law enforcement officials on crowd control and the use of equipment would be welcome. Did law enforcement and court officials receive clear instructions regarding the use of force, for example, and how were they held responsible if their use of force in a particular incident was found to have been excessive and unnecessary? Had law enforcement and court officials received training in line with the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials?

30. The Committee would also like to know whether training programmes on the prevention of torture were run for military and intelligence officials and security guards and, if so, how many had been trained. It would also be helpful to know whether the State party had developed a code of ethics for law enforcement and prison officials, and, if so, whether any had been investigated for violating it. Furthermore, the delegation should inform the Committee whether training programmes were held to educate public officials on the legal provisions governing violence against women and whether law enforcement officials, investigators and prosecutors had received any specific training on how to combat trafficking in human beings. In addition, she would welcome comment on the participation of judges in capacity-building activities.

31. The Committee would like to know whether there were any plans to abolish the special isolation regime in prisons. Although the entry into force of the new Criminal Code in September 2016 would mark the full abolition of the death penalty, the Committee would like further information on the situation of prisoners currently on death row. How many prisoners were on death row and what were their conditions of detention? Had any complaints been received from those prisoners? An update on the construction of the four detention centres scheduled for completion in 2016, including information on their planned capacity, would also be appreciated. It would be helpful to know when the special centre for young offenders, which had been planned for construction in Bayanzurkh district, would be completed, what its capacity would be, and how it would alter the existing detention regime for young offenders.

32. The Committee was concerned about the serious overcrowding at Denjiin Myanga detention centre and the poor conditions at detoxification centres. In the light of reports that, despite some improvements in recent years, conditions in places of detention remained generally poor, the Committee would welcome information on the measures taken by the State party to prevent overcrowding in places of detention, including statistical information on cases in which alternatives to detention had been applied. How many monitoring visits to places of detention had NGOs conducted over the previous two years? Would a national

preventive mechanism be established to facilitate visits to places of detention? The Committee would appreciate more information on the social rehabilitation programmes to prepare detainees for release and any amendments made, since submission of the State party's report, to the legislation governing the custody of persons subject to any form of arrest, detention or imprisonment and the conduct of law enforcement officials during interrogations and arrests.

33. The Committee would like to know exactly how many complaints of torture and ill-treatment had been received by the National Human Rights Commission and why, as stated in paragraph 122 of the periodic report, the number was expected to increase. It would also be helpful to know whether the number of complaints received had increased over the previous two years, how many had been investigated and how many sentences had been handed down. In the light of information received attesting to the difficulties involved in gathering evidence of cases of torture or ill-treatment, it would be instructive to learn whether the relevant complaint mechanism had been improved. In such cases, were there procedures in place to protect the complainant and any witnesses against intimidation or ill-treatment?

34. The Committee would also like to know whether any legal provisions had been established to ensure that an alleged perpetrator could be suspended from his or her functions until the necessary disciplinary investigation had been completed and, if so, whether any examples could be supplied. How many disciplinary investigations of alleged perpetrators had been completed over the previous two years and how many had resulted in the imposition of disciplinary sanctions? She asked whether the State party planned to amend the Code of Criminal Procedure to include torture as a ground for compensation. It would also be helpful for the delegation to comment on the claim submitted by the National Human Rights Commission against the Government in relation to compensation for victims of false conviction and torture. Would they be adequately compensated?

35. The delegation should provide statistical information on recorded cases of domestic violence, disaggregated by the age and ethnicity of the victim, since no such information had been provided in the report. More information on the rehabilitation mechanisms in place for victims of domestic violence and human trafficking and an update on the number of specialized centres for victims of domestic violence would also be appreciated.

36. Despite amendments recently made to the Criminal Code, in particular the amendment of article 251, the Committee had been informed that statements and confessions obtained under torture and ill-treatment continued to be admitted as evidence in court. In that connection, it would be useful to know whether any complaints of forced confession had been recorded, whether any verdicts of acquittal had been returned on grounds of forced confession, and whether the right against self-incrimination was respected. The delegation might also inform the Committee whether video and audio recording equipment had been installed in all interrogation rooms.

37. The Committee would like to know what steps had been taken to establish a criminal justice system for young offenders. How many persons aged under 18 were currently held in pretrial detention facilities and how many had been sentenced to deprivation of liberty? In the light of the continued prevalence of child labour, including the worst forms of child labour, the Committee would like to know what had been done to combat the problem.

38. She was concerned at the prevalence of corporal punishment. According to statistics collected by the United Nations Children's Fund (UNICEF) in 2013, 46 per cent of children between the ages of 2 and 14 had experienced "violent discipline" and, although legislation banning corporal punishment in schools had been enacted, no systematic efforts had been made by the Government to raise awareness about its harmful effects, and it was apparently still widely practised in institutions and in the home. Through public education and

professional training the State should seek to ensure that discipline was positive and non-violent.

39. Mongolia was not a signatory to the 1951 Convention relating to the Status of Refugees and, although the Constitution contained provision for granting asylum, the fact that the status of refugee did not exist in law meant that potential asylum seekers could not obtain work permits and did not have access to basic State services such as health care and education. She wished to know if there was any mechanism for documenting torture and ill-treatment among asylum seekers and to whom victims could submit complaints.

40. Lesbian, gay, bisexual, transgender and intersex (LGBTI) persons in Mongolia faced many forms of discrimination in public and private life and suffered numerous human rights violations, including physical and sexual attacks and arbitrary arrest. According to data collected by the United Nations Development Programme, more than 70 per cent of LGBTI persons had reported abuse and harassment at the hands of law enforcement officials. She wished to know if any legislative initiatives were envisaged to protect the rights of LGBTI persons more effectively, to discourage discriminatory ideologies, and to ensure that all attacks against persons targeted for their sexual orientation were impartially investigated and punished.

41. **Ms. Belmir** said that she wished to know what results the National Action Programme on Human Rights had achieved, particularly in terms of the training of law enforcement officials, which had been an area of concern identified by both the Committee against Torture in 2011 and the Human Rights Committee. During the state of emergency, which had been in force since 2008, certain high-ranking officials and police officers had been suspected of committing human rights violations. A prosecution had been launched but been dropped due to lack of evidence. She wished to know whether any further steps had been taken in that regard. It was important to remember that, under the International Covenant on Civil and Political Rights, a state of emergency could not justify any derogation from the obligation to prevent torture.

42. According to law, inquiries into human rights violations were carried out by investigating judges and other officials, but the police always seemed to be involved in one way or another. Moreover, an investigative unit set up to conduct inquiries into allegations of torture perpetrated by the police had been suppressed in 2014 and its duties had apparently been transferred to the police itself. The presence of the police in investigations in which its own officers were often the alleged culprits raised serious questions about independence and impartiality, an issue which had also been highlighted by the National Human Rights Commission and NGOs. She wished to know how the State party could guarantee human rights when institutional roles overlapped in that way. She was also concerned that some police officers seemed to be implicated in the trafficking of minors for labour or sexual exploitation, but prosecutions were rare. Could the delegation also respond to more general concerns about the independence of the justice system, which had also been raised by a number of other treaty bodies?

43. **Mr. Bruni** said that he would be interested to hear more about the 504 persons under 18 years of age who, according to the periodic report, had been convicted by the courts in 2013. In view of the fact that Mongolia was seeking to improve its legislation concerning juveniles in conflict with the law and was applying custodial measures only in cases of extreme necessity, he wished to know whether those persons had been found guilty of criminal offences and whether they had been imprisoned. Could the delegation provide statistics concerning the situation post-2013?

44. He wished to know why, according to article 370 (2) of the Code of Criminal Procedure, such a fundamental safeguard as the video recording of the interrogation of an accused minor was available only at the expense of the accused person. The current penalty

of 10 to 15 years' imprisonment for a perpetrator of torture in the case of the death of the victim hardly seemed commensurate with the gravity of the offence and he wondered whether a more appropriate penalty would be embodied in the new Criminal Code. He wished to know in what circumstances and on what legal basis directors of detention centres had authority to order the release of detainees. He would be grateful if the delegation could throw light on statements in the periodic report to the effect that complaints from persons in detention were "expected to increase in the future" and that the complaints were starting "to allege the crimes of torture, inhuman and degrading treatment". Did that mean that the conduct of prison personnel was deteriorating? Furthermore, those statements seemed to be at odds with subsequent claims made in the replies of Mongolia to the list of issues. He asked the delegation to provide a recent example of the findings of the National Human Rights Commission following a visit to a place of detention.

45. Ms. Gaer said that she was very gratified at the many commendable legal changes the State party was contemplating. She had been pleased to learn that receiving an order from a superior officer was no longer considered a valid justification for committing acts of torture or ill-treatment. She wished to know how many times it had been invoked as a justification in the past and whether any such cases were currently pending.

46. Could the delegation provide more details about the expanded powers of the National Human Rights Commission? In a letter it had written to the Committee, the Commission had stated that it had legal authority to oversee the police in matters pertaining to human rights and constitutional guarantees, but she wondered exactly what was meant by "oversee". Did the Commission submit reports, conduct investigations, bring legal action, vet police officers and impose disciplinary measures?

47. The claim made in the State party report that just 12 cases of torture or ill-treatment had been recorded between 2010 and 2013 was very much at odds with information provided by the National Human Rights Commission, which spoke of over 3,000 complaints of torture and ill-treatment, many from persons in pretrial detention. She was concerned that the complaints were not leading to an adequate number of prosecutions. The Committee had expressed a similar concern in its 2011 concluding observations on the report of Mongolia (CAT/C/MNG/CO/1). She would be interested to know what authority was competent to investigate allegations of torture and what prerogatives it had. She also wished to know what investigations had taken place and why certain cases brought to the attention of the authorities had not been investigated.

48. The State party was to be commended for revising its legislation on domestic violence. It was good, for example, that reconciliation between perpetrator and victim no longer nullified the offence. However, she wished to be assured that, under the new provisions, domestic violence was no longer treated as an administrative offence but as a criminal one. In any case, more still needed to be done: four shelters for victims were probably too few for a country in which there had been 660 reports of domestic violence in the first seven months of 2015. She wondered whether there were plans to build further shelters and whether the concept of a protection order existed in Mongolian law.

49. She asked the delegation to comment on cases where LGBTI persons had felt victimized by the police. What measures were being considered to prevent not just discrimination but also violence against LGBTI persons?

50. **Mr. Hani**, commending the useful annex to the State party report that included a list of extradition treaties entered into by Mongolia, asked whether the crime of torture was covered by those treaties, especially as a number of them had been signed well before the entry into force of the Convention. If not, he wondered whether the Government would consider incorporating a provision on torture in them. He also wished to know what steps

had been taken by the State party to accept the competence of the Committee to receive and consider communications under articles 21 and 22 of the Convention.

51. Turning to Mongolia's response to issue 2 (a) (CAT/C/MNG/Q/2/Add.2) concerning fundamental legal safeguards for persons deprived of liberty, he said that the 283 persons cited who had been provided with free legal assistance out of a total 726 persons detained implied that some 30 per cent of those persons could not afford such assistance. He wondered whether the delegation could provide statistics on the social and economic backgrounds of offenders. Such data might be helpful in tackling the social and economic causes of crime. Clarification was needed of the figures cited in the response to issue 2 (b) for the number of who were detained without delay as of the first half of 2016, as they suggested that some two thirds of the persons in question had been detained for a prolonged period. What was meant by "without delay"?

52. The delegation should provide more details of the training provided to health-care workers on the Istanbul Protocol. Did persons other than police officers provide such training? If not, that would give medical staff somewhat less scope to document cases of torture involving law enforcement officials.

53. He asked what safeguards were in place to ensure the independence and smooth operation of the national preventive mechanism, given that the role of such a mechanism would be played by the National Human Rights Commission. When national human rights institutions were vested with the powers of a national preventive mechanism, they often had a separate body, within the institution that devoted itself to prevention so that they could fulfil their responsibilities. It would be interesting to have an account of how the Commission would undertake the task of responding to complaints received from persons in places of detention while at the same time playing a preventive role.

54. **Mr. Zhang** said that paragraph 122 of the periodic report required clarification; it stated that 289 of the 650 complaints received in 2013 and 134 of the 282 complaints received in 2014 had been filed by people who had been incarcerated and that that number was expected to increase. What number was being referred to and why was it expected to increase? He would be grateful for an update on complaints of torture filed since 2014 and their outcome. It would be useful to hear about the current status of amendments to the law on the Marshals (Takhar) Service, referred to in paragraph 124 of the report, which were aimed at granting the Service the right to investigate allegations of official abuse during judicial proceedings. The delegation should clarify whether the bill on the status of prosecutors referred to in paragraph 160 had been passed.

55. **The Chair**, noting that the National Human Rights Commission consisted of only three commissioners, asked how many persons served on their support staff. He wondered whether the State party considered three commissioners to be sufficient to support the work of the national preventive mechanism to be established under the Commission. He was grateful for the information on mutual legal assistance in criminal matters and extradition for the period 2009 to 2013 contained in appendix 3 to the State party's report and wished to know whether any requests for extradition had involved persons accused or convicted of torture.

56. The delegation should explain the figures on persons held in pretrial detention presented in paragraphs 66 to 68 of the periodic report. In particular, it was not clear why the number of such persons had increased to 7,767 in 2013 and 4,271 in the first half of 2014, according to paragraph 67 of the report. What accounted for such a dramatic increase?

57. He wished to refer to reports that the population was afraid of the police and was discouraged from lodging complaints. There had also been allegations of the use of threats to extract confessions from suspects. He wondered what the Government was doing to

ensure that the police did not have too much power and to make them more accountable and whether the mechanisms in place to oversee their actions were adequate.

58. **Ms. Racu** asked whether the National Human Rights Commission monitored the situation of persons in psychiatric institutions. Any data that the delegation could provide on that situation would be welcome. Noting that the Office of the Prosecutor General was responsible for inspecting conditions of detention, she asked on what basis the Office made visits to prisons and how often inspections were carried out. The delegation should also provide information on the number of investigations launched and prosecutions brought following such visits and inspections.

59. **Ms. Belmir** said that clarification was needed of the following recommendation of the Supreme Court referred to in paragraph 52 of the State party's report: "the judge within forty eight hours of receiving the decree on the arrest of the suspect (in urgent cases) may, if necessary, in the presence of the prosecutor and advocate, in issuing a judicial order to either sanction confinement under guard or free the arrested person". She asked, in particular, who was responsible for issuing warrants for arrest. The delegation should also provide examples of the urgent cases in question.

*The meeting was suspended at 5.30 p.m. and resumed at 5.40 p.m.*

60. **Mr. Erdenebat** (Mongolia) said the relatively low number of convictions of law enforcement officials for the crime of torture had been due to the lack of a definition of torture under the previous criminal legislation, which had covered only physical injury. Under the current legislation, it was now possible to investigate crimes of torture involving mental pain or suffering. The amended Criminal Code set forth a definition of torture that was in conformity with the definition under the Convention. The harmonization of the law with international standards explained the sharp increase in the number of complaints brought and persons charged for torture. Both perpetrators of torture and their accomplices were subject to criminal penalties under the new law and the punishment was commensurate with the harm caused. Torture was considered an aggravating circumstance for a number of offences under the current Criminal Code.

61. A question had been raised concerning the number of persons who had been investigated or prosecuted for torture in cases involving the defence of superior orders. While no statistics were currently available on such persons, his Government had begun to collect specific data on acts classified as crimes of torture under the Criminal Code. His delegation would provide the Committee with data on the number of torture cases investigated and prosecuted at a later date.

*The meeting rose at 6 p.m.*