



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

Distr.: General
3 May 2017

Original: English

Committee against Torture Sixtieth session

Summary record of the 1519th meeting

Held at the Palais Wilson, Geneva, on Thursday, 27 April 2017, at 3 p.m.

Chair: Mr. Modvig

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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 and sixth periodic reports of Argentina (CAT/C/ARG/5-6 and CAT/C/ARG/Q/5-6) (continued)

1. *At the invitation of the Chairperson, the delegation of Argentina took places at the Committee table.*
2. **Mr. Avruj** (Argentina), underlining his Government's determination to adhere to the values of truth and full respect for internationally recognized human rights, said that it agreed with the country rapporteur's view that the judicial consideration of cases involving crimes against humanity should be speeded up, while maintaining the independence of the legal system and the equality of all men and women before the law. The Secretariat for Human Rights and the Cultural Pluralism of the Nation had, for instance, brought a case in December 2016 against General Milani, supreme leader of the army under the previous Government, who had been arrested for kidnapping, torture and membership of an illegal association accused of having committed crimes against humanity under the former military dictatorship. As at March 2017, 2,780 persons were being investigated for crimes against humanity; 750 had been sentenced; 794 had been charged; 45 were at large; 467 had died and many others had either not been charged or had been absolved; 1,044 had been imprisoned, of whom 455 were held in prison facilities and 518 were under house arrest. One figure of concern was that, of the 750 who had been sentenced, only 25 per cent had as yet received a final sentence.
3. It should be noted that Argentina was a country of immigrants, with different communities living in complete harmony. Migrants who were seeking a better life or had been forced by circumstances to flee from their home were seen as enriching the country. However, improved border controls, in application of Act No. 25.871, the Migration Act, had nothing to do with nationality, but were intended to prevent persons who had committed illegal acts from entering the country.
4. The independence of the Public Prosecution Service was guaranteed by the separation of powers pursuant to the Constitution. In respect of the democratization of the legal system and the Council of the Judiciary, the Ministry of Justice and Human Rights was introducing an ambitious reform programme that involved civil society, with 17,000 persons having contributed so far. The previous Government had tried to introduce such a programme, but it had been considered unconstitutional by the Supreme Court because of the political interference it involved. The composition of the Council of the Judiciary had also been expanded under a previous Government to give the executive greater power, and that was being called into question by the Supreme Court. There was a general lack of reliable statistics and discrepancies between the data that were available, which was the regrettable result of decades of erroneous policy, but work was now being done to correct the situation.
5. **Ms. Varela** (Argentina) said that the Office of the Ombudsman was politically independent and had its own budget, of 420 million pesos in 2017, which was reviewed each year. Its formal relationship with the legislative authorities functioned through the Bicameral Standing Commission. It submitted an annual report on its work in March and the Government's budget proposal was prepared for 15 September each year before being examined by the deputies. The procedure for appointing the Ombudsman was laid out in Act No. 24.284 and required a political consensus, with support from two thirds of each of the two chambers of Congress. The same majority was needed for the Prison System Ombudsman and for appointments to the Supreme Court. For the position of Ombudsman, three candidates were selected by the Bicameral Standing Commission by a simple majority and were then voted on in the Senate. If no candidate received two thirds of the votes, the two candidates with most votes would go through to a second round. If the required majority could not be obtained, the matter would be returned to the Bicameral Commission. Since November 2016, 12 candidates had applied and the selection would take place in the second part of 2017.
6. The national Committee against Torture consisted of 13 members, of whom 3 were appointed from each chamber of Congress, while further 3, who were approved by NGOs,

represented civil society. They were appointed for a four-year mandate, renewable once, and were required to demonstrate integrity, experience in defending human rights, particularly those of persons deprived of their liberty, and the capacity to maintain their independence. The civil society representatives had access to the same resources and could carry out monitoring in the same way as the other members. The Committee worked with NGOs or local institutions and could carry out joint visits or write reports together with other representatives of civil society, such as academics and human rights organizations. The Committee's work could not be used to justify any restrictions on monitoring of places of deprivation of liberty by civil society organizations, which could appeal to local mechanisms or the national Committee if they were prevented from carrying out their work.

7. As concerned any possible overlap between the mandate of the Committee and that of the Prison System Ombudsman, it was expected that the two institutions would work out their own areas of competence on the basis of the reasons for which they had been established. Since the Ombudsman would also be a member of the Committee, he or she could help to coordinate the work of the two bodies and raise the issue of torture throughout the country. It was true that, as a result of the 2012 Act, the level of representation of the executive on the Committee was a problem but the current priority was to implement the Act as it stood and establish the Committee; any attempt to do otherwise brought the risk of lengthy delays.

8. Act No. 26.827 made provision for the proper functioning of the national preventive system. In the first year of the Committee's activities, its budget must be at least 3 per cent of the amount allocated to Congress. Since the national budget for 2017 was 12 billion pesos, that would mean a minimum of 360 million pesos for the national Committee. Once it was properly constituted, the Committee would submit its own proposed budget to Congress each year for inclusion in the relevant legislation.

9. **Ms. Quinteros** (Argentina) said that the Migration Act did not provide for migrants to be detained simply for reasons of migration. Where a foreign national had agreed to expulsion, that person might be held, on the basis of a court order and only when absolutely necessary, for a maximum of 30 days, with the possibility of an extension on the basis of a judicial decision. Such individuals should be held separately from offenders, but the immigration police force did not always have appropriate facilities. A dedicated building in Buenos Aires was currently being refurbished and would soon be brought into use for that purpose.

10. The amendments to the Migration Act being proposed in Decree No. 70 of 2017 would not go against the spirit of the Act, as decisions on the admission or expulsion of foreign nationals must still be taken in full compliance with human rights and in line with the relevant inter-American standards. The judicial process, which involved both legal and administrative reviews, could take up to 10 years and, in any case, expulsion could be considered only if the person had been convicted of an offence subject to a penalty of more than 5 years' imprisonment. All persons, regardless of their immigration status, were guaranteed the rights to interpretation, free defence counsel and consular assistance. Exceptions to the law were granted in cases of family reunification and of cooperation with the authorities in respect of human trafficking. Specialized courts were to be set up to deal with migration-related cases of persons newly or previously convicted of crimes.

11. A total of 234 persons had been expelled in 2016 and 57 to date in 2017. Of the 10,978 persons currently in the federal prison system, 2,342, were foreign nationals; 1,584 had been charged and 758 had been sentenced. Immigrants represented 4.5 per cent of the general population, but about 21 per cent of persons held in the federal prison system. In 2015, 1,877 allegations of discrimination against women or indigenous persons or on grounds of sexual orientation had been reported to the National Institute to Combat Discrimination, Xenophobia and Racism, with a further 3,470 reported in 2016.

12. The procedure for the determination of refugee status did not permit detention or restriction on freedom of movement, nor did it provide penalties for illegal entry into the country or the presentation of counterfeit documents. As the principle of non-refoulement was a cornerstone of Act No. 27.175, refugees and asylum seekers could not be subject to refoulement at the border and were given preferential treatment. Of those who had applied for asylum, 88 per cent, primarily Syrians, had been given refugee status in 2014; 115 had been accepted in 2015 and 176 in 2016, mainly Syrians and Ukrainians, and a further 23 persons had been accorded refugee status to date in 2017. The policy on refugees coming

from places of conflict included the issuance of humanitarian visas. While the figure of 3,000 refugees had been set, and 1,500 had arrived so far, more could be taken if the conflicts continued.

13. Article 3 of the Convention was enshrined in the Act on Mutual Assistance in Criminal Matters and would be applied even if there was no bilateral treaty with the country concerned, meaning that a person could not be extradited if there were substantial grounds for believing that he or she would be in personal and real danger of being subjected to torture in the requesting country. The judge concerned must assess the situation in the light of the Mandela Rules and had requested additional information or diplomatic guarantees in many cases. In some, the judge had not allowed the extradition to go ahead.

14. State policy made provision for the protection of vulnerable groups in detention, including dedicated facilities for transgender persons in a women's gaol, with a specific protocol for their treatment as women and the provision of appropriate medical programmes. A similar facility was to be set up in Buenos Aires province. There were also specific programmes for women, girls and boys in detention that ensured compliance with the Convention on the Rights of the Child. The electronic surveillance programme provided appropriate monitoring for certain groups of convicted persons: pregnant women, women with children of different ages, persons with disabilities or incurable diseases who could not be given proper treatment in detention and persons over the age of 70. Women in prison were offered medical checks for cervical, breast and bowel cancer.

15. Femicide had been made an independent offence under article 80 of the Criminal Code in 2002 and was considered an aggravated form of homicide. In 2015, there had been 235 victims of femicide; 236 individuals had been charged in connection with those cases, most of whom were on trial and 3 per cent had already been convicted. Most of the victims were between the ages of 21 and 40 years, while the perpetrators were mostly men between the ages of 19 and 40. In 2015-2016, over 22,400 calls had been made to the 24-hour hotline, more than 16,000 of which had been made by first-time callers. Three quarters of callers were persons in a situation of violence, but nearly one fifth of calls were placed by relatives.

16. Abortions were permitted when the mother's health or life were at risk or when the pregnancy resulted from rape. Access to abortion was covered under the National Sexual Health and Responsible Procreation Programme. Eight provinces had adhered to the protocol on the comprehensive care of women eligible for a legal abortion, while eight others had adopted more restrictive protocols and a further nine had not adhered to or adopted any such protocol. There was a toll-free line for information on abortion. Regarding the Belén case, the woman concerned had been released after being absolved by the Supreme Court.

17. **Mr. Szuchet** (Argentina), in reference to legal reforms, said that the President had established a committee to unify the considerable number of criminal provisions contained in amendments and supplementary laws; the committee had begun its work on 1 March 2017. The general part of the Criminal Code had been discussed, while the special part, including the definition of torture, would be broached in the second half of the year. The entry into force of the new Code of Criminal Procedure had been suspended because the basic conditions for its implementation within the set time frame had not been satisfied. As a result of the suspension, a bill amending Act No. 27.063 had been submitted with a view to reinforcing the suspended Code by focusing on the investigation and adjudication not only of criminal offences but also of federal offences. The amendments were designed to bolster the adversarial system and strengthen the tools at the justice system's disposal to combat organized, complex and transnational crime. Argentina was lagging behind other countries in the region as well as Europe in terms of fighting complex crime; hence the need to introduce special investigation techniques into the Code. The bill on the new Code was currently before the Senate Committee on Justice and Criminal Affairs.

18. Regarding the events at the police station in Pergamino, a support team consisting of 10 psychologists and lawyers from the Buenos Aires Provincial Human Rights Secretariat had been dispatched to Pergamino the day following the fire to provide assistance to the relatives of the deceased and the survivors of the events. Representatives of a number of local victim assistance associations had also been called in. The Secretariat had coordinated with the embassy of Colombia to facilitate the repatriation of the remains of the Colombian national who had died in the fire. The support team had later travelled to Prison No. 49 to

meet with the survivors who had been transferred there, check their well-being and ascertain their needs. All the survivors had received psychological care at the Prison. Four police officers — a fifth officer had fled — were being held on criminal charges, in addition to the administrative procedure initiated by the internal affairs division of the Buenos Aires provincial police. The trial of the 17 individuals charged in connection with the events at the Magdalena Prison was scheduled to begin on 15 August 2017.

19. The excessive duration of civil and criminal proceedings, which was due to the fact that judicial capacity had not kept pace with the increased demands on the system, was a key government concern. The Government believed that a new organizational model, including a shift from written case files to oral hearings and the incorporation of new technologies, had to be put in place to ensure the swift processing of cases. Technology would also facilitate the investigation of serious problems such as corruption, drug trafficking, money laundering and trafficking in persons. In addition, there was a drive to promote alternate dispute settlement mechanisms and to make legal action a last resort. Efforts were being made to ensure access to justice for traditionally isolated communities, whether on account of geographic location, culture, sex, economic status or disability, with particular focus on protecting victims. The President was resolute in his attachment to ensuring the independence of the judiciary, which was provided for in the Constitution and federal and provincial laws and entailed the ability of the Public Prosecution Service to investigate all types of offences.

20. The judicial system was in a structural crisis compounded by the level of violence in the country, making it necessary to adopt a new Sentence Enforcement Act that better met social needs while respecting national and international standards. The integrated amendment bill currently before the Congress was aimed solely at limiting the possibility of early release for certain violent and complex offences. It had been adopted by the Senate just the day before, taking into account the changes requested by civil society organizations. The Government was aware that solitary confinement was sometimes being used as a form of punishment. It should be noted that the relevant rules were applied at the discretion of the prison warden and that efforts were under way to strengthen regulations with a view to preventing abuse. It was possible to report undue use of solitary confinement.

21. The current administration was of the view that not only did violence by prison staff need to be stamped out and the perpetrators punished, but awareness-raising was also necessary. Accordingly, basic and in-service training courses on ethics, human rights, transparency and anti-corruption measures had been developed. International experts had been involved in corruption prevention modules that had been taught in prisons in 2015 and 2016. In addition, training was provided to prison staff as part of efforts to prevent torture, and staff working in women's facilities had received gender training from the Women's Affairs Office of the Supreme Court.

22. Regarding concerns about the excessive recourse to pretrial detention, National Decree No. 257/2015 stipulated that the entry into force of the Code of Criminal Procedure (Act No. 27.063) would be gradual, as set out in a plan developed by the Bicameral Monitoring and Implementation Committee. The main change would be the shift from an inquisitorial to an adversarial system, in which Public Prosecution Service and the Public Defence Service would play a crucial role. The Procedures in Cases of Flagrante Delicto Act No. 27.272 had been adopted in September 2016 and introduced oral hearings at the preliminary investigation stage. The new procedure also applied in the case of offences that carried a maximum penalty of 15 years' imprisonment, or 20 for some categories of offences. All decisions had to be taken at oral hearings, which were to be digitally recorded. The procedure depended on the Public Prosecution Service as the entity that determined the charges to be laid. A detainee had to be brought before a judge within 24 hours, a period that could be extended by a further 24 hours. The prosecutor, indicted person and defence counsel were required to attend the hearing, at which a motion to suspend proceedings or a motion for a summary procedure could be filed. Pursuant to the adoption of Act No. 27.208, the investigation phase would be separated from the trial phase; correctional proceedings would henceforth be oral and more cases would be heard by a single judge. Electronic surveillance bracelets were used as an alternative to pretrial detention, in cases of early release and as a security measure for certain offences. They provided a partial solution to prison overcrowding and helped with resocialization.

23. Although there was no unified national register of persons deprived of their liberty, noteworthy progress had been made in that connection. A process, involving the Office of the Prosecutor for Institutional Violence, various public entities responsible for monitoring detention conditions and experts, had been launched in 2016 to draft a bill on the establishment of an integrated register under the coordination of the Congressional Commission on Human Rights. The bill had been finalized and would be submitted to the parliament for adoption shortly. In addition, the Ministry of Justice had signed an agreement with the judicial authorities regarding the digitization of and access to judicial information. The National Directorate of Crime Policy ran the national statistics programmes on the justice system and prisons; reports were published annually and the prison database could be accessed through the Ministry's website.

24. Regarding the specific cases mentioned by the Committee members, the investigation into the shooting of Lucas Cabello had been completed and the trial should conclude in 2018. The National Secretariat for Human Rights and Cultural Pluralism, in coordination with the Ministry of Social Development, was in periodic contact with the family to respond to its various queries. Seven staff of the Argentine Naval Prefecture had been investigated for the torture of Ezequiel Villanueva Moya and Ivan Navarro; six were being held, the case against the seventh having been dropped. In a strong message to members of the security forces that they were bound by a code of conduct, all seven had been dismissed from the Naval Prefecture. The National Secretariat was also providing assistance to the families, while the National Programme to Combat Impunity and the Dr. Fernando Ulloa Assistance Centre for Victims of Human Rights Violations were on hand to provide psychological support.

25. **Mr. Schapira** (Argentina) said that there were over 72,600 persons deprived of their liberty in Argentina, some 62,400 in provincial centres and 10,200 in the federal system; more than half were held in Buenos Aires Province. Despite what the previous administration had claimed in the report to the Committee, there was an overcrowding problem in Argentine prisons. The average rate in provincial facilities was 10 per cent, but the situation was much worse in some provinces, especially Buenos Aires, where overcrowding topped 30 per cent and a state of prison emergency had been declared. There was not, however, a concomitant problem in the federal system. Efforts were under way to build new facilities and renovate almost the entirety of existing prison infrastructure by 2022 in order to create 18,000 new places. New constructions would comply with the Standard Minimum Rules for the Treatment of Prisoners and the recommendations made to Argentina by international organizations. The resources allocated to the work in 2017 amounted to 15 per cent of the Ministry of Justice's overall budget.

26. The Office of the Prosecutor for Institutional Violence promoted strategies for coordinating follow-up in cases of institutional violence and conducting inspections. Its staff included lawyers, social workers and psychologists with experience in the areas of police and prison violence, corruption, registers and databases. In addition, the Office followed an established protocol on the criminal prosecution of cases of institutional violence that referred to the Istanbul Protocol and contained specific guidelines on how to conduct interrogations, establish the facts, including through the analysis of medical and psychological evidence, and identify those responsible. In 2012, the Public Prosecution Service had adopted rules, based on the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions, for the investigation of cases of physical harm and homicide committed by members of the security forces. In 2016, a resolution had been adopted, instructing prosecutors working on cases of institutional violence against children to notify the Ombudsman for Minors and Legally Incompetent Persons to ensure that the views of the children concerned were heard.

27. Up to March 2017, the Office had intervened in over 430 cases of institutional violence allegedly committed by members of the federal security forces in the exercise of their duties or offences against persons held in federal prisons. It had filed some 80 criminal complaints and had initiated nearly 60 preliminary investigations, of which 25 had gone to trial. Between 2013 and 2016, the Office had processed over 870 complaints of institutional violence, mainly harassment, minor physical harm, threats, abuse of power, bribery and torture, in 15 jurisdictions.

28. The case in Córdoba Province where the Office of the Ombudsman for the Prison System had been prohibited from visiting federal prisoners who, under an agreement, were

being held in provincial centres, arose from a lack of awareness, and steps were being taken to ensure that the incident would not be repeated in future. There was no record of entry being denied to federal facilities.

29. The amount of compensation payable was fixed by law in order to spare victims the necessity of appearing in court. Accepting the compensation did not preclude taking legal action. The relevant laws provided for compensation in specific situations, such as death as a result of state terrorism, detention of children for the actions of their parents, and forced exile. Since November 2015, 2,130 settlements had been reached pursuant to the laws. As victims of torture had their cases heard by commercial and civil courts, their settlements were confidential.

30. The Ministry of Justice's Truth and Justice Programme was continuing, and the Government was considering extending the protocols for the protection of witnesses of murder to cover the victims of institutional violence. Under the procedure in force, a risk assessment was carried out on all witnesses to determine the likelihood of their being attacked by a perpetrator. Individuals deemed to be in danger were given access to a witness protection programme. Over 3,000 witnesses had been assessed, and some 150 defendants were currently before the courts.

31. Confessions or other evidence obtained by unlawful means such as torture were not admissible in Argentina. The Government of Argentina considered that the definition of torture provided under article 144 of the Criminal Code of Argentina was sufficiently broad to cover the requirements of the Convention. However, as the Code was currently being amended, the Government remained open to suggestions from the Committee in that regard.

32. **Mr. Collia** (Argentina) said that while Act No. 26.827 established that each province would designate an institution to act as a mechanism for the prevention of torture, in line with the Optional Protocol to the Convention, factors including the diversity and complexity of the legislative make-up of the provinces had caused delays. A department had been created to govern the implementation of the Optional Protocol and provide guidance to the provinces, and the Federal Government was adding technical and other support where required. Although eight provincial preventive mechanisms were already operational, they differed substantially in terms of their powers, resources, and level of development.

33. It was hoped that the mechanism for Buenos Aires would soon be operational. Work had started at the federal level to ensure that at least four of the eight bills pertaining to preventive mechanisms currently before provincial legislatures would be passed by the end of 2017. A federal council would be established in May 2017 to examine the mechanisms in each province, appoint individuals to a national committee against torture, and provide interconnectivity between mechanisms.

34. Cases of torture were recorded in registries, including at the provincial level in provinces such as Santa Fe and Buenos Aires, and the prisons inspectorate published annual reports on its web page. The Government was aware of the need for all relevant bodies at the national and provincial levels to work together to create an integrated system of properly referenced cases, which would record all instances of torture across the national territory.

35. Guidelines on the minimum content of the initial training of law enforcement officers had been issued, placing a focus on human rights education. A commitment had been made to reform training schools for the provincial police. Three training institutions for prison staff were operational: a training school that ran three-year courses for professionals who managed criminological programmes in the federal system; a training school for officials responsible for prison security; and the Higher Academy of Prison Studies, which provided continuous training for all staff in the federal prison system and one-year training courses for prison officers.

36. The standard used to determine the capacity of prisons enabled the maximum number of prisoners to be calculated on the basis of management criteria, including conditions of detention, security concerns, and mobility requirements within the prison.

37. A series of measures were in place to mitigate the non-reporting of torture cases and impunity with regard to prison officers, including ombudspersons at the provincial and

national levels, a national policy to counter institutional violence, and a national programme to combat impunity. More than 300 cases of institutional violence and impunity in the country were currently being examined, while support was being provided to victims. The executive power was taking all measures in its power to move the cases forward.

38. In relation to the concerns raised regarding the ill-treatment of Senegalese nationals, the Government was setting up mechanisms to prevent any type of violence, xenophobia or racial discrimination against migrants in the country. Having detected instances of ill-treatment of Senegalese migrants in the provinces of Buenos Aires and Mendoza, it had strengthened the response of the provincial authorities to make sure that such incidents did not recur. A process of dialogue between the Senegalese community and the authorities had been launched, and further action had been undertaken at the national level in coordination with civil society.

39. **Mr. Heller Rouassant**, while praising the constructive spirit shown by the Government, said that it should take advantage of the imminent amendment of the Criminal Code to arrive at a more detailed definition of torture, and to extend responsibility across a wider range of participants, as envisaged in article 1 of the Convention. Bearing in mind that the possible effects of overcrowding in prisons included further crimes and torture, it would be beneficial for Argentina to look at the underlying causes of the doubling of its prison population in the last 16 years. He wished to know more about the methodology followed to determine the number of detainees held in federal prisons. With regard to institutional violence and deaths in custody, newly released data suggested that the total number of related complaints and trials in the period from 2016 until March 2017 stood at 436 cases. However, it was unclear whether that figure referred to complaints, trials in process, or sentences handed down, and he would appreciate clarification on that point.

40. The need to create a national register for torture had first been raised by the Committee 20 years previously. In order to simplify the endeavour, the Government should not hesitate to use the rich expertise and data of institutions active in the fields of human rights and social sciences. Preventive mechanisms were important measures that authorities could use to cooperate directly with such institutions.

41. **Mr. Zhang**, said that, as the rights of lesbian, gay, bisexual, transgender and intersex persons had been raised in the discussion, he would like to take the opportunity to relay a number of recommendations he had received from an intersex genital mutilation NGO in relation to the status of intersex persons in Argentina. They wished the State party to take legislative, administrative and other measures to guarantee respect for the physical autonomy of intersex persons, to provide counselling services for intersex minors and their parents, to uphold the rights of identity of intersex persons in accordance with human rights standards, and to involve intersex persons in the design, implementation and monitoring of public policies affecting them.

42. **Mr. Bruni** said that he would welcome further information on the nature of the diplomatic assurances provided to Argentina by other States with regard to the detention conditions a person liable to extradition would face. Did such assurances refer to the exchange of letters, to a form of monitoring mechanism, or to something else? The State party's report referred to a case currently before the Supreme Court, in which the court of first instance had found assurances provided by the State requesting extradition to be insufficient, and had therefore rejected the request. Since the judgment before the Supreme Court was not yet final, he wished to know whether the State party could provide any examples of final decisions that had been taken in cases where diplomatic assurances had been deemed insufficient.

43. **Ms. Belmir** said that despite the commendable efforts undertaken by the State to overhaul the justice system, a number of issues persisted. The allegations of torture remained the same; the number of convictions continued to be low, and the wheels of justice turned slowly. There was a deficiency in the judicial system, and some people considered that the approach to reforms constituted a politicizing of the judiciary. According to the State, the Public Prosecution Service was independent of the executive and the judiciary. However, the basic concepts needed to be agreed upon, and it would be interesting to know the State party's approach in that respect.

44. **Mr. Hani** asked if an investigation and an autopsy were automatically conducted whenever a death occurred in custody. He would like to know whether there were

independent forensic physicians who could share their expertise in such cases. As for the forensic physicians who were State officials and had expertise in that area, information on their independence from the authority governing them would be welcome.

45. The information regarding the national preventive mechanism was appreciated, particularly the reference to the Act that established the selection criteria for members, namely, integrity, democratic values, and experience with the defence of the rights of persons deprived of their liberty. Clarification as to whether those criteria also applied to representatives taken from the legislature would be helpful. The Act addressed cases of incompatibility, and though it indeed referred to six representatives from the legislature, it would be useful to know whether it was possible to consider the possibility of six members being selected from outside the legislature in order to avoid politicizing the national preventive mechanism.

46. **The Chair** asked if the NGOs currently conducting monitoring activities would continue to do so after the establishment of the national preventive mechanism, whether civil society would be represented on the national committee against torture, and whether in some cases, that committee would also conduct monitoring activities. In addition, clarification on how medical expertise was ensured on monitoring teams would be appreciated, as would additional details on the absence of a national registry of detainees. Lastly, it would be interesting to hear more about the findings of the Inter-American Commission on Human Rights regarding the pressure placed on judges to order pretrial detention in cases which might be overturned at higher levels.

47. **Mr. Zhang**, referring to the criteria applied in respect of overcrowding at detention centres and prisons, asked whether the information given earlier referred to the exact figure for the standard space to which a person was entitled.

48. **Mr. Hani** asked whether, in relation to the fight against torture in Argentina, a fund had been established in the State to assist the victims of torture. It would be helpful to have an account of how the Government supported or intended to support the measures carried out through the United Nations Voluntary Fund for Victims of Torture.

The meeting was suspended at 5.20 p.m. and resumed at 5.35 p.m.

49. **Mr. Avruj** (Argentina) said that there were many factors involved in the reasons for the increase in the prison population. For instance, the general population of the country had grown in the previous 15 years, which had led to an increase in the crime rate.

50. With regard to pretrial detention, approximately 60 per cent of the prison population was held in pretrial detention. That was related to the data given earlier on persons held in detention for crimes against humanity, only 25 per cent of whom were being held under final sentences.

51. As stated on its web page, the Public Prosecution Service played a fundamental role in the system of administration of justice, which comprised the judiciary (consisting of judges, state officials, and employees), the Public Prosecution Service, and the Public Defence Service. Those were the three fundamental sectors involved in judicial proceedings. The Public Prosecution Service was an independent body within the system of administration of justice. It was under the responsibility of the Attorney General, who was nominated by the executive and approved by the National Congress. It had been independent of the judiciary (headed by the Supreme Court of Justice) and its independence was enshrined in the Constitutional Reform of 1994.

52. **Ms. Quinteros** (Argentina) said that, under the new Code of Civil Procedure and the Act on Gender Identity of 2012, intersex persons had the right to self-determination regarding their own bodies and that their free and informed prior consent was a fundamental requirement for any medical operation they underwent.

53. In the Sonnenfeld case, which had been referred to earlier, the United States had requested the extradition of Kurt Sonnenfeld, who had been accused of a crime but not sentenced. If found guilty, he could be sentenced to the death penalty in the State of Colorado. Although the Supreme Court had decided to extradite Mr. Sonnenfeld, the Government had decided against extradition on the grounds that there was a risk of violating article 3 of the Convention.

54. **Mr. Szuchet** (Argentina) said that overcrowding in the prison system was really a structural problem. According to official figures, the federal penitentiary system had an occupancy rate of 10,274 for 11,227 places across the country. As for the lack of a registry of detainees, the issue was being studied with a view to introducing a new framework which would make it possible to establish such a registry.

55. When a death occurred in custody, notification was given automatically to the appropriate judge, who would initiate pretrial proceedings to determine the cause of death. An autopsy was often requested if the death was not suspicious, but automatically whenever a death appeared to be suspicious. Independent physicians were often called in to deal with such cases.

56. **Mr. Schapira** (Argentina) said that, according to the Office of the Prosecutor for Institutional Violence, between 2008 and 2016, there had been an average of 43 prison deaths per year. Thirteen of the prison deaths which had occurred in 2016 involved some form of violence, and 33 cases had led to a judicial investigation.

57. With regard to institutional violence, investigations were being conducted into offences committed by federal security officials against persons deprived of their liberty. No information was currently available as to whether the State officials concerned had been prosecuted or sentenced.

58. The Government was working with the University of Buenos Aires to improve the psychological services offered to victims of State terrorism by the Ulloa Centre and sought ultimately to extend those services to all victims of institutional violence. Any person claiming to be the victim of State terrorism was entitled to submit a claim, the merits of which determined the monetary compensation subsequently awarded.

59. **Mr. Collia** (Argentina) said that Act No. 26.827 provided for a national preventive mechanism, which included not only the national committee for the prevention of torture, but also a variety of governmental institutions and NGOs concerned with the implementation of the Optional Protocol to the Convention. In fact, there were many oversight organizations which were empowered to inspect penitentiary facilities and which predated the national committee.

60. With regard to the incompatibility concerning representatives of the legislature, a bicameral commission established the implementation of article 57 of the Act, which provided that the national committee would become operational upon the admission of seven of its members. At that stage, the six members from the National Congress were not included precisely because of the issue of political representation. Additionally, a transparent, competition-based mechanism was being contemplated with a view to preventing politicization with regard to the committee representative named by the National Secretariat for Human Rights.

61. Prison overcrowding was calculated on the basis of the ratio of the occupancy rate to the number of spaces available in any given penitentiary. The Inter-American Court of Human Rights recommended 7 m² per detainee as an acceptable standard, and work was being carried out to embed that standard in domestic legislation.

62. **Ms. Quinteros** (Argentina) said that Argentina contributed US\$ 13,000 per year to the United Nations Voluntary Fund for Victims of Torture.

63. **Mr. Avruj** (Argentina) said that the delegation would provide the Committee with additional answers upon request.

The meeting rose at 6 p.m.