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Twenty-eighth session

SUMMARY RECORD OF THE 523rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 14 May 2002, at 3 p.m.

Chairman: Mr. BURNS

CONTENTS

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Third periodic report of the Russian Federation (continued) (CAT/C/34/Add.15)

1. At the invitation of the Chairman, the members of the delegation of the Russian Federation took places at the Committee table.

2. Mr. RYBAKOV said that, as a member of the Russian legislature with 12 years human-rights-related experience, he had a somewhat different perspective of the human rights situation in his country from that of the governmental representatives. He regretted that the presentation of the third periodic report had not been made available in writing and that he, too, had heard it for the first time the previous day. While the report was somewhat too self-congratulatory in tone, as might be expected of a report prepared by representatives of a country's executive, it was still more objective and substantive than the Russian Federation's previous periodic reports. Nevertheless, as a representative of the electorate, with a constituency of some half a million voters, he would find it easier than civil servants did to talk about the country's failures.

3. With reference to the concern expressed by the Government that the incorporation of a provision on torture into the Criminal Code could impair the coherence of the country's legislative system, he said that any coherence in the legislative system pertained more to the lamentable tradition - deeply rooted in Russian history - of non-observance of human rights, which persisted at all levels of society, notwithstanding recent efforts to change attitudes and reform the system. It was standard for Russians to accord an instinctive priority to the interests of authority rather than to those of the individual. Accordingly, the judicial process tended to be inquisitional and the exercise of authority punitive.

4. While the situation had improved considerably, those improvements represented only about one quarter of the task that had to be done. The goals that had been set by progressive elements in Russian society included the safeguarding of the country's new democratic institutions; abolition of the death penalty; separation of the authorities responsible for conducting investigations from those supervising the conduct of such investigations; ending the system of a separate military jurisdiction; and resolving the problem of Chechnya, which had become the great scourge of modern Russian society.

5. In his view, the issue of impunity, especially for torture, was something of a cancer in Russian society. Various bills on increasing the criminal liability for torture had been submitted to the State Duma for ratification but had been rejected. Efforts would continue, however, to have such legislation passed and he hoped that he would be able to count on the support of the Government in that respect.

6. The issue of constitutionality and legality remained acute in the Russian Federation but it was not alone in that regard. According to United Nations statistics, crime was on the increase

even in the advanced Western democracies, demonstrating that the gap between the theoretical situation regarding human rights protection and reality, even in those countries, remained very wide.

7. With regard to the issue of the number of prisoners and detainees in the Russian Federation, he pointed out that the United States, whose population constituted 5 per cent of the world's total, accounted for 20 per cent of the world's prison population, demonstrating the severity with which that country applied its criminal law.

8. The CHAIRMAN reminded the speaker that it was the Russian Federation, not the United States, whose report was being considered by the Committee and that comparisons with other countries were largely inappropriate.

9. Mr. RYBAKOV (Russian Federation) said, in conclusion, that it was important for the Russian Federation to continue the process of State-building, like all countries governed by the rule of law. He looked forward to the Committee's recommendations and advice which would, he hoped, be objective and fair and thus of great use to his country.

10. Mr. MISHIN (Russian Federation) said that the Russian Federation had acquired the necessary legislative framework to promote the observance of human rights and to counter the use of torture. The protection of human rights and freedoms was the central function of the procuratorial system, which was responsible for monitoring the legality of the work of the law-enforcement agencies and investigating complaints of offences committed by the police. The country's current procedural legislation set out clear rules for considering such complaints: thus, under article 109 of the Code of Criminal Procedure, allegations of unlawful actions by the law-enforcement authorities had to be investigated within 3 days, or, in exceptional cases, 10 days, of the submission of the complaint and the investigating authority had to determine, on the basis of such an investigation, whether or not to institute criminal proceedings. In addition, the procuratorial authorities could decide to institute such proceedings on the basis of materials published in the media. Once criminal proceedings were instituted, certain investigative and forensic procedures had to be followed, of which he gave an account. The procuratorial authorities were responsible for ensuring strict compliance with those procedures.

11. Refuting the claim that lawyers were reluctant to file complaints regarding the use of torture and were unable to submit evidence without the assistance of the investigative authorities, he cited article 51 of the Code of Criminal Procedure which stipulated that lawyers were entitled to file such complaints with judges and to gather and submit any evidence necessary for the provision of legal assistance. Indeed, there were frequent cases where lawyers and their clients submitted complaints that evidence had been obtained through torture. The courts were obliged to consider such complaints and, if they were substantiated, to refer them for further investigation.

12. Any complaints regarding the use of mental or physical violence or torture by anyone involved in the judicial process was treated as a report of a crime and the concealment or failure

to consider such complaints was itself a punishable offence. Under Russian law, evidence obtained through the use of violence or torture was not valid and, in particular, article 75 of the new Code of Criminal Procedure deemed inadmissible any testimony obtained in the absence of counsel.

13. In 2000 and 2001, more than 5,000 officials had been prosecuted for offences involving the use of torture, including in aggravated circumstances. He gave a detailed breakdown of the numbers of officials charged under each of the various articles.

14. Turning to the issue of compensation, he confirmed that the Russian Federation had extensive and comprehensive arrangements for the payment of compensation for harm caused by pre-trial or preliminary investigation authorities, the procurator's offices or the courts. He gave details of the types of compensation awarded, which included monetary compensation, such as the reimbursement of salary and pension payments, refunds of fines and payment of legal costs; and in-kind compensation, covering the return of property or the replacement of homes; and clarified that compensation was paid even if the official in question was not found guilty of an offence. The new Code of Criminal Procedure had established other rights of compensation, set out in chapter 18, relating to pensions, housing and other rights.

15. The Russian public was making very wide use of the protection afforded by the courts and there had been a massive increase in the number of complaints submitted by ordinary citizens to the courts, which were currently processing more than a million such complaints per year. In addition, Russian citizens were currently able to submit cases to the European Court of Human Rights, which offered a further measure of protection and was thus contributing to the process of legal reform in the country.

16. On the question of access to legal assistance, he said that the new Code of Criminal Procedure stipulated that a person had the right to legal counsel from the moment he or she was taken into custody.

17. In reply to the question whether any foreign citizens liable to expulsion had asserted that they might be subject to torture in the receiving country, he said that, in 2000, the Russian Federation had returned 3,942 people to their countries of origin and had overturned expulsion orders in respect of 565; in 2001, 1,609 people had been returned and expulsion orders overturned for 365; in no case had any complaint been made that the returnees ran the risk of torture in the receiving country.

18. Turning to the question of Chechnya, he said that the restoration of legality and law and order in the Russian Federation was closely connected with the normalization of the political, economic and social situation in that area. The continued destabilizing activities of illegal armed formations necessitated a firm response by the law-enforcement agencies. At the same time, the arrangements were in place, including an investigative department under the Military Procurator's Office, to monitor observance of the law by military personnel and to prosecute crimes committed by such personnel deployed in Chechnya for the conduct of counter-terrorist operations. In addition, the Military Procurator's Office of the North Caucasus region had established a special unit to investigate alleged offences against the Chechen population.

19. In 2000 and the first half of 2001, many violations of the rights and freedoms of the civilian population had been committed by military personnel in the course of the operation to register citizens and detect members of illegal armed bands. In response to those violations, the Chechen Procurator's Office had stepped up its monitoring of compliance with the law including a system of measures, elaborated in August 2001 in conjunction with the procuratorial authorities of the Russian Federation, to supervise the activities of the Russian military forces. That supervision was conducted in accordance with the provisions of the Constitution and a wide range of federal legislation, including the laws on terrorism, on the police, and many others.

20. The involvement of members of the local and military procuratorial offices had positively influenced the conduct of military operations and led to a sharp decrease in the number of offences and thus of complaints by citizens, since any alleged beaches of the law were dealt with promptly and on the spot. Thus, in the second half of 2001, no complaints had been lodged with the procuratorial authorities regarding the unlawful detention or disappearance of civilians during the conduct of the special operations, although a small number of complaints of theft or damage to property had been lodged and had been successfully resolved. When alleged offences by military personnel conducting the registration exercise had been reported, the Procurator's Office had immediately instituted criminal proceedings and, in 2000 and 2001, 52 such cases had been investigated by the procuratorial authorities in the Chechen Republic, leading to the prosecution of 30 persons. As a result, 19 criminal cases against 17 people had been heard by the courts.

21. The Procurator's Office of the Chechen Republic had stepped up its efforts to investigate criminal offences involving the abduction of civilians. In every case where there was evidence of an abduction, criminal proceedings had been instituted forthwith. In order to improve the coordination of efforts to trace missing persons, the Procurator's Office had set up a computer database and was cooperating closely with the Federal Ministry of Internal Affairs, the Federal Security Bureau and other federal and local authorities.

22. By an official decision adopted in 2001, arrangements had been formalized for the provision of information to the Special Representative of the Russian President on the upholding of human and civil rights in the Chechen Republic, pursuant to which three working meetings had been held between the Special Representative and the Acting Procurator of the Chechen Republic, and efforts to promote the exchange of information had been intensified. Accordingly, over the period of the counter-terrorist operation, the law-enforcement agencies had instituted 400 criminal proceedings concerning abductions or illegal detentions under articles 126 and 127 of the Criminal Code and in 2001 alone, 270 criminal cases had been instituted by the procuratorial authorities. As a result of the efforts made, some 300 missing persons had been traced.

23. Over the period 2000-2001, 22 criminal cases had been initiated against persons suspected of offences under articles 126 and 127, involving the disappearance of 441 people. Following efforts by the Special Representative of the Russian President and the Office responsible for tracing missing persons in Chechnya, a list of 774 missing persons had been drawn up, including some whose cases involved no evidence of the commission of a crime and had not, therefore, triggered any criminal proceedings.

24. The Military Procurator's Office had investigated 127 cases involving alleged offences by military personnel, more than 50 of which concerned murder, rape and abduction. Proceedings in those cases were currently under way in accordance with the fundamental principles of transparency and the equality of all citizens before the law. In all, 61 cases had been concluded, 44 of which had been referred to the military courts, 12 of them involving murder and one rape, while 22 criminal cases had been dismissed. He clarified that, when criminal proceedings were dismissed for any reason, a verification was conducted and a conclusion issued on the case.

25. As things stood, the military courts had convicted 18 soldiers, including 2 officers, of offences against civilians and the officers had been sentenced to 10 years in a strict-regime colony.

26. The conduct of criminal prosecutions in Chechnya was complicated by a number of factors, including the security situation, local religious traditions and burial customs. Relatives often refused to allow bodies to be exhumed and sometimes did not even report the deaths of family members, for fear of reprisals.

27. In response to the report lodged by one Musaeva that the bodies of her son and two other persons had been found in the village of Raduzhnaya, a team of detectives had been despatched to the spot the following day by the internal affairs authorities and eight bodies had been found, some in civilian clothes and others in military fatigues, all showing signs of violent death. Criminal proceedings had been launched by the Chechen Procurator's Office under article 105, paragraph 2, subparagraph (a), of the Criminal Code. Over the following week, a further 41 bodies had been found, all showing signs of violent death, bringing the number of such bodies to 51, 24 of which had been identified. No reports of the disappearance of any of those persons had been submitted to the authorities. In the course of the criminal proceedings on the case, more than 60 people had been questioned and forensic examinations had been made of the bodies.

28. Turning to the issue of the harassment of military conscripts, he gave a detailed account of an analysis that had been made of crime within the armed forces, which revealed a general decline in offences involving breaches of the rules of conduct. Although the total number of crimes reported in 2001 had increased, that increase was due to the closer attention being paid by the procuratorial authorities to the problem of breaches of the rules of conduct within the armed forces and to efforts to ensure that a more principled approach was followed in investigating breaches of criminal and procedural law by commanders and training officers. Accordingly, the statistics showed that fewer servicemen had suffered from harassment, including physical abuse, by their superiors than in 2000.

29. In 2001, steps had been taken to enhance the supervision of compliance with the law, and to suppress violations of the military rules relating to the conduct of superiors towards servicemen. Teams of procuratorial investigators had been despatched to some 270 military units, to investigate compliance with the rules of conduct and to ensure a safe environment for servicemen. He mentioned some further details of the violations uncovered and

investigated by those teams, which had comprised 86 officers from the Military Procurator's Office and 73 specialists. In all, criminal charges had been brought in 53 cases; 25 previously hushed-up cases had been uncovered; and 25 unlawful decisions by the military authorities had been set aside.

30. He also gave an account of investigative actions conducted by the supervisory department of the Central Military Procurator's Office, which had included more than 3,500 procuratorial verifications of compliance with the law on the conditions under which military conscripts lived and served and had found violations of the rights of more than 2,000 servicemen.

31. A number of measures had also been adopted in 2001 to strengthen the work in that area by the relevant standing bodies under the military authorities and by the Military Procurator's Office, including a continuation of the positive practice of joint inspection visits to military units. In addition, video films had been circulated to military units on the prevention of unlawful behaviour and breaches of military rules and had been positively received by servicemen of all ranks.

32. During the inspection visits to military units, particular attention was given to verifying that orders and instructions by commanding officers, particularly in units with a past record of breaches of the rules of conduct, were consistent with the country's legislation; to the observance by officers of the military regulations relating to the application of disciplinary measures; and to ensuring the safety of conscripts. All those measures had helped significantly to reduce the number of complaints submitted by servicemen and their relatives to the military procuratorial authorities.

33. He outlined some other measures adopted to improve the observance of the rules of conduct in military units and to tackle the problem of evasion of military service, including the systematic attendance by army officers and senior military procurators at meetings and conferences of action groups, including committees of soldiers' mothers. In general, there had been a positive response to efforts by the Military Procurator's Office to address problems of harassment in the armed forces.

34. Outlining other attempts to improve the situation of servicemen, he drew attention, in particular, to work carried out in 2001 by the Central Military Procurator's Office, together with a scientific institute, to develop a handbook on the endeavours of the military procuratorial authorities to protect the rights of servicemen and their families. The purpose of that exercise was to establish standards and guidelines to be followed by procuratorial officials in resolving the relevant human rights issues.

35. Turning to the issue of the military courts, he explained that military courts had been retained under the system of courts of general jurisdiction, in accordance with the federal law of 23 June 1999 on the establishment of such courts. He described in detail the extent of the jurisdiction of the military courts and assured the Committee that they exercised justice

independently and were subordinate only to the Constitution and the federal laws. Their judges were entirely independent and answerable to no one. Any interference in the performance of their work was prohibited and would be prosecuted. The independence of military judges was guaranteed by the Constitution and federal laws and could neither be set aside nor diminished.

36. Under Russian law, the decisions of military courts were subject to appeal in the same way as those of civil courts. Thus, the Presidium of the Supreme Court of the Russian Federation reviewed appeals from and challenges to the decisions and sentences of the Military Bench of the Supreme Court and of the military courts. Appeals from and challenges to decisions taken at first instance and which had not yet entered into force were reviewed by the Cassation Bench. The judges of military courts and those sitting on the Military Bench of the Supreme Court were themselves military officers but their contracts of military service were suspended from the moment that they were assigned as judges.

37. Mr. RYBAKOV (Russian Federation), replying to the questions concerning the detention of two doctors in Saint Petersburg in October 1999, said that the case had been investigated by the Primorskij Region's Department of Internal Affairs after two doctors from the military academy were found to have exceeded their authority in relation to an assistant officer and had admitted using force. Criminal proceedings had been brought against them and the court had found them guilty under part III, article 286 of the Criminal Code of the Russian Federation. As for removal from a post, according to articles 114 and 153 of the Criminal Procedure Code, only persons charged with having committed a crime, and not just suspects, could be removed from their posts.

38. Mr. MALGUINOV (Russian Federation) said that the Russian Federation had ratified the Convention relating to the Status of Refugees in 1992, and that it had come into force in 1993, representing the first step towards developing legislation in the sphere of immigration and protection of the rights of refugees. Over the previous 10 years, the situation in Russia regarding migrants had seriously deteriorated. Between the mid-1990s and 2002, over 8 million people had entered Russia from the neighbouring States, the main problem being that of migrants coming to the country to work illegally. What had formerly been a humanitarian problem had become a problem of national security.

39. The Government had taken a number of steps to tackle the problems such as adopting a law on refugees and on resettlers, reviewing a law on the status and rights of foreign citizens adopted during the Soviet period and introducing over 20 other legislative acts in connection with the rights of refugees, resettlers and other categories of migrants. Government resolutions had also been passed on the certification of refugee status and on temporary reception centres for refugees. Similarly, a special Presidential provision on the social welfare of children from refugee families had been adopted.

40. An interdepartmental group had recently been set up for the further development of migrant legislation, its principal tasks being to bring Russian standards into line with international guidelines, to define the various categories of migrant and to improve the legal system for dealing with them.

41. According to data from the Federal Statistics Department, there were 26,000 persons on Russian Federation territory who had been granted refugee status. Examination of applications to grant refugee status to foreign citizens and stateless persons was carried out on an individual basis. A person applying for refugee status received a certificate confirming that his/her application was being examined; he/she had the right to the services of an interpreter and to information on the procedure for obtaining refugee status, the right to assistance, and a one-off payment for travel and transport of personal possessions. Persons applying for refugee status were housed in temporary centres until their asylum application had been processed. They received food, communal services, medical treatment, professional advice and had work arranged for them in accordance with the law. In addition to refugee status, the categories of "temporary asylum" and "political asylum" were also recognized under Russian Federation law. Temporary asylum was granted for one year with possible extensions for further one-year periods. In the case of political asylum, a procedure existed whereby a person seeking asylum had to be protected against persecution in the home country for political convictions or for acts that did not contradict democratic principles and standards of international law.

42. Administrative measures were adopted against foreign nationals or stateless persons who violated legislation covering the right to remain on Russian Federation territory and, in the case of serious violations, foreign nationals could be expelled from the territory. However, under article 10 of the Federal Law on Refugees, it was forbidden to expel refugees whose life, health or freedom was threatened because of their religion, race, citizenship, political convictions or adherence to a particular social group. Persons who had been refused refugee status or "temporary asylum" status, or had had it repealed, had the right to appeal to the appropriate body or court. If the court upheld the decision to refuse the status, they must voluntarily leave the Russian Federation and, if they refused, sanctions would be imposed by the procurator or they would be subject to imprisonment or repatriation.

43. According to information from the federal Ministry of the Interior, a total of 22,000 foreign nationals and stateless persons with no legal right to remain in the Russian Federation had been removed in 2000 and 2001. Illegal immigrants currently represented 85 per cent of all foreign and stateless persons on Russian Federation territory: some had failed to obtain refugee status (40,000); some were foreign workers who had come to the former Soviet Union under intergovernmental agreements and who were still there although the agreements had since lapsed (60,000); some were from Western Europe and North America staying in Russia with private individuals (150,000) and others were engaged in illegal business activities or working for criminal organizations (150,000).

44. An even greater problem was that of the 5 million illegal migrant workers on Russian Federation territory. Legal and practical measures were currently being introduced to regularize the situation. The Government's immigration policy had undergone a major restructuring at the end of 2001 and all questions associated with refugees and resettlers were currently being dealt with by the Special Federal Immigration Service of the Ministry of the Interior which had opened an office in Moscow. That Service examined the definitive individual status of foreigners living on Russian Federation territory and, if it decided that the person came under the mandate of the Ministry of the Interior, it issued a certificate granting him/her the right to remain. The Supreme Commissioner for Refugees was also undertaking a programme for the resettlement of refugees in third countries.

45. Mr. BORTCHEV (Russian Federation), replying to the question as to whether there was civil control over law-enforcement agencies and the military in Russia, said that the problem was currently under discussion. There was a tradition of civil control and the protection of human rights in the Russian Federation which could be traced back to the 1970s, but that had been a difficult period during which human rights had been frequently violated. Since then, the Government had made efforts to deal with the problem and to improve the protection of human rights. The problem of preventing torture in the Russian Federation was a difficult one and, without the participation of society and NGOs, it was not possible to achieve success. Consequently, a bill had been drafted for submission to the Russian parliament on civil control and on respect for human rights in places of detention. The Duma had approved the bill in 1998 but the Federal Council had blocked it. A new version of the bill was currently before the Duma and it was to be hoped that the discussions with the Committee would help to ensure that the bill was given serious consideration by the Russian parliament. To date, experience had been positive and the Ministry of Justice was supporting the adoption of the redrafted bill.

46. Although the foundations for establishing civil control existed in the Russian Federation at many levels, it was inhibited and violated in the armed forces. That fact could be traced back to the lack of accountability in the 1970s and 1980s and, until the problem was actually recognized, it would not be dealt with at a sufficiently high level within the armed forces. The activities in Chechnya of the Russian human rights association "Memorial" were a good example of the gradually increasing level of civil control in which the association's role was becoming more and more important. Its revelation of the facts which had come to light had forced the State to take action and launch follow-up investigations. In the process, a constructive basis had been laid for tackling the problem of torture. It was to be hoped that civil control would be extended across the country so as to offer the same rights to the whole of the population.

47. A package of laws introduced to reduce the prison population and humanize the character of the penal system had been elaborated by the Ministry of Justice, working in close cooperation with NGOs. As a follow-up to its meeting with the Committee, his delegation intended to set up a working party made up of representatives of NGOs and government departments (e.g. the Ministry of Justice, Procurator-General's Office, Ministry of the Interior, Supreme Court, Ministry of Defence, etc.) to discuss the problems on a regular basis and deal with those issues raised by human rights organizations, in the hope of solving the problems of torture through an open dialogue. However, even if the working party was successful in introducing a law into the Criminal Code to criminalize torture, that would not entirely solve the problem because there were many procurators in the Russian Federation who did not regard it as an important issue at all. Prevention of torture must be accepted as a general social concept and to do so required close cooperation between the structures of the State and NGOs.

48. Mr. KALININ (Russian Federation), replying to questions concerning the reform of the penal system, said that, at the beginning of the 1990s, when attempts were first made to reform the penal system, criminal legislation was characterized by the fact that many people were deprived of human rights and freedom. It did not become feasible to make changes and improvements, however, until the penal and executive system was transferred from the control of the Ministry of the Interior to the Ministry of Justice.

49. In 2000, a meeting was held on the problems of the criminal justice and penal system, chaired by President Putin. As a result, a bill had been drawn up by the Procurator-General's Office and other law-enforcement agencies for submission to the Duma and the consequent law, which came into force in June 2001, made 59 amendments to criminal law and the criminal process. The amendments made a number of changes to criminal policy and practice, including measures to reduce the numbers of people held in custody and to restrict the time taken to investigate criminal cases, both of which were serious and positive steps. It also introduced measures relating to female minors and attempted to reduce the large numbers of inmates in prisons and penal colonies. Among the categories affected were those who had committed unpremeditated crimes and those sentenced to less than five years for minor offences.

50. The conditions for those remaining in detention were also improved. There were currently over 50,000 inmates in penal colonies and a total of 74,000 persons had been released from the prison population in 2001, representing a significant reduction. Recent figures illustrated the change in government policy: in 2001, there had been 2,968,000 offences registered in the Russian Federation and the number of people sentenced had been 1,640,000. Those sentenced to custodial sentences had numbered 364,000 and those given non-custodial sentences had been 680,000 in number. That trend had continued in 2002, with the total number of persons in detention centres and pre-trial custody being 959,424, on 1 May 2002, as against 1,100,000 in 2000. Those held in remand centres on 1 June 2000 had numbered 272,727 and on 1 May 2002 they had been 197,284.

51. In the young offenders institutions, there were 14,049 people with social illnesses, and there appeared to be a direct link between detention and social illnesses. There were currently 405,000 prisoners suffering from various illnesses: 87,500 from active forms of tuberculosis, 305,000 from various types of mental illness, 33,000 from HIV, 7,000 from hepatitis and 34,000 from syphilis. Consequently, the penal system had not only to detain people but also to treat them. For a long time the extremely limited resources available for medical treatment in the penal system had made it impossible to solve those problems, but, in 2001, the budget for the administration of the penal system had more than doubled and it was hoped that there would be a further increase in 2002.

52. In addition, the legal executive system under the Ministry of Justice had had increased opportunities to interact with its foreign counterparts and to improve international cooperation for the treatment of tuberculosis. It was actively working with WHO and with Médecins sans Frontières, the Soros Foundations Network and a number of other NGOs to find new ways of treating tuberculosis, improving the qualifications of doctors and re-evaluating existing treatments.

53. In 2000, a federal programme had been set up to combat social diseases which paid special attention to the problem of tuberculosis and HIV in the penal system. As a result, the problem was being taken more seriously and there was currently enough medicine available to treat all those infected. Deaths from tuberculosis numbered 135 per 100,000 of the prison population whereas, in Russia as a whole, the figure was 17 per 100,000. Over half of the persons with the active form of tuberculosis were inmates of the penal system. Every year a further 34-35,000 people entered the prison system with undiagnosed tuberculosis. In the Russian Federation, every new prison inmate was henceforth given a medical check-up and

screened for tuberculosis and HIV. Despite the high number of deaths from tuberculosis, there had been a reduction of 14 per cent over the previous three years and the numbers of those whose condition had worsened from the passive (treatable) to the active form of tuberculosis had been reduced from 92,000 at the end of 2001 to 87,000 at the current date.

54. The new Code of Criminal Procedure would become law on 1 July 2002. No steps had been taken or would be taken to delay its entry into force. The Code regulated all questions to do with preventive measures before trial and, more specifically, the length of time that persons spent in pre-trial detention. Pre-trial detention was no longer automatically applied to persons accused of offences for which the penalty exceeded two years' imprisonment (five years in some cases). The new Code also specified that a normal pre-trial investigation should take just 2 months, the absolute maximum being 18 months. Due allowance being made for all investigative work and procedural steps, no one should spend more than six months in pre-trial detention. Exceptionally, however, in the case of particularly serious crimes, the court had the power to prolong such detention by three months.

55. The new Code of Criminal Procedure differed from the old in several respects: the aim of criminal proceedings was no longer to fight crime; instead the focus was on protecting the rights and legitimate interests of individuals, organizations, and victims and preventing innocent persons from being falsely accused, convicted, or having their rights and freedoms infringed. The Code enshrined the supremacy of the Constitution of the Russian Federation. Many of the concepts contained in the former Code had been amplified and developed. Not only the procurator but other officials or bodies conducting an initial inquiry also were authorized to present the case for the prosecution. Charges could be brought by a procurator, an investigator, a person conducting an initial inquiry, a private prosecutor, the victim or his or her legal representative, or a civil plaintiff or his or her legal representative. To enable the parties to criminal proceedings to exercise their rights fully, the Code envisaged measures for the protection of victims, witnesses and other parties. An accused person was presumed innocent until proven otherwise. Steps had been taken to level the playing field between the prosecution and the defence: the new Code stated explicitly that a court was not an organ of criminal prosecution, but a forum enabling both prosecution and defence to fulfil their obligations and exercise their rights. The need to cite a justification for each procedural step was another new development.

56. The institution of procuratorial supervision had been abolished. Procuratorial supervision currently applied only to the procedural work of bodies conducting initial inquiries and pre-trial investigations. Criminal proceedings could be instituted only with procuratorial authorization. The grounds for discontinuing a criminal case or discontinuing a criminal prosecution had been expanded to take account of concepts such as reconciliation and remorse.

57. The role of the courts in pre-trial proceedings had been considerably expanded: only a court had the power to remand a person in custody as a preventive measure, to place someone under house arrest, to set the length of pre-trial detention, to commit someone to a medical or psychiatric facility for appropriate treatment, to order premises to be searched in the absence of the owner, to order searches of persons, and to authorize the sequestration of bank accounts and the seizure and confiscation of assets.

58. Lay judges in courts had been abolished; judge and jury courts and three-judge panels had been instituted in their stead. A person accused of a very serious offence could choose the system under which he or she wished to be tried. An increasing number of misdemeanour cases were being handled by single-judge courts and justices of the peace. Courts martial were not allowed to try offences committed by a mixed group of military and civilian personnel if the civilian defendants objected to being tried by a court martial. An exhaustive list of procuratorial functions had been drawn up. Some of the procurator's former powers had been diluted or taken away.

59. The rights of suspects and accused persons had been strengthened considerably. The exact moment at which the right of defence came into being at various procedural stages had been clarified. Suspects acquired a right of defence as soon as they were placed under arrest. A suspect was entitled to a confidential meeting with a lawyer prior to his or her initial interrogation. The initial interrogation should take place within 24 hours of the arrest, and a record of the arrest had to be prepared within 3 hours. Counsel was obliged to be present throughout criminal proceedings, and the rights of defence lawyers - especially the right of client confidentiality and the right to gather evidence - had been expanded and strengthened. The rights of victims and civil plaintiffs had also been fortified. Witnesses could request a lawyer to be present during interrogations. The list of persons who could not be examined as witnesses or serve as official witnesses had been extended to take in most varieties of law-enforcement officials.

60. The rules of evidence had been tightened up. The courts were obliged to reject any evidence obtained from persons who had been denied access to a lawyer, persons who had declined legal representation and refused to repeat their statements at the trial, and evidence based on conjecture, rumour, hearsay or statements made by witnesses who refused to reveal the source of their information.

61. A list of grounds for the release of suspects had been drawn up. A new kind of preventive measure had been introduced, namely, house arrest. Pre-trial detention (remand) could be selected as a preventive measure only if it was impossible or undesirable to apply a less onerous measure, and only with the sanction of a court. Incidentally, courts no longer had the power to refer cases back for further investigation.

62. The role of the court and its working methods had changed. Instead of questioning the defendant, the victim and the witnesses, the judge had to confine his or her questions to witnesses, and only after the prosecution and the defence had put their own questions. Both sides had an equal right to appeal a court judgement. No one could be tried twice for the same offence. Specialist personnel were used to question minors in court proceedings.

63. In reply to the questions asked about conditions in children's homes and young offenders' institutions, there were a number of statistics that the Committee might wish to note: the Ministry of Labour currently administered 970 specialized institutions for minors aged from 3 to 18 years and some 300,000 maladjusted children and young people passed through those institutions every year. The network of institutions administered by the Ministry of Education comprised 1,242 children's homes catering for 133,000 youngsters. The Ministry of Justice administered 64 young offenders' institutions housing 10,800 inmates. In 2001, the

Procurator-General's Office had recorded over 42,000 cases of child abuse and neglect in such institutions and had brought more than 32,000 legal actions involving violations of children's material rights. Most of the abuse was clandestine, but cases of children being starved, beaten and sexually abused had come to light. Criminal proceedings had been instituted where appropriate. The failure of local authorities to provide children with adequate housing and social benefits could also be described as a form of child abuse. The Government was making every effort to assist orphaned children and children at risk. A range of statutes and federal programmes had been developed to tackle the problem, and more than 2 billion roubles had been set aside for child-related programmes in the federal budget.

64. As for psychiatric hospitals, Russian law made provision for the application of compulsory measures of a medical nature in respect of mentally ill persons in secure psychiatric hospitals administered by the Ministry of Health. A person's written consent had to be obtained before he or she could be committed to such an institution. Involuntary restraint could be applied only to mentally unbalanced persons representing a danger to those around them. It should be noted that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had stated that compulsory treatment of detainees at outpatient clinics attached to places of detention need not always be carried out with the patient's informed consent; that was in harmony with the provisions of the Russian Criminal Code. No experiments were ever carried out on mentally ill persons. In 2000, certain convicted persons had complained of unlawful hospitalization but investigation had revealed that the individuals concerned had been genuinely in need of medical attention and hence no violation of proper procedures had occurred. In line with a recommendation of the European Committee, the Russian Federation intended to prepare guidelines on the use of physical force and special restraining devices in secure psychiatric hospitals, specifying that physical methods should be used only as a last resort. Every instance of physical restraint should be comprehensively documented.

65. The largest category of victims of violent crime in the Russian Federation was currently that of battered and abused women. The Ministry of the Interior reported that, annually, 14,000 women were killed by their husbands and 2,000 committed suicide. Domestic violence cases required a special approach and sensitive handling by the law-enforcement authorities in order to press charges. Unfortunately, domestic violence was not included among the types of violence to the person listed in the Criminal Code, nor were there any legal provisions to address the problem specifically. Victims of domestic violence could turn for help to one of the 2,134 social service centres, crisis centres or shelters for battered women that had been established throughout the Russian Federation. The scale of the problem obviously necessitated concerted efforts on the part of the law-enforcement agencies, courts, social services, crisis centres, NGOs, and educational establishments.

66. In the past decade, the number of women prisoners had more than doubled. In 1992, there had been approximately 19,600 women in prison; in 2001, their numbers had swollen to 40,700. About 15 per cent of all criminal prosecutions against women ended in a prison sentence. The reasons for that trend were: the higher profile of women in all spheres of social life; the undesirable impact of economic instability on family life; fluctuating family budgets; and the feminization of poverty. No information was available on violence against women in places of detention.

67. Special services had recently been established to protect the rights of detainees and prisoners, but it was still too early to say whether they were operating effectively. They were fully independent structures that cooperated with NGOs and regional human rights commissioners.

68. It was true that, in remand centres, minors could be held in the same cell as adults, but the adults in question were carefully screened to ensure that they did not exercise a negative influence. No problems had been reported.

69. Ms. GAER, speaking as Country Rapporteur, said that the delegation's replies had put many of the issues raised in the report into perspective. However, despite the copiousness of the information provided, it was still unclear whether any specific individuals had been punished for breaching the Convention. Fuller information could have been provided about ethnic and sexual minorities. The explanation of the new Code of Criminal Procedure had been helpful and encouraging, but some uncertainty remained as to the precise role of judges in approving pre-trial detention and whether they merely rubber-stamped decisions taken by investigative bodies. She would like to know what a judge could do if an individual made an allegation of torture, or if the individual showed signs of having been tortured.

70. Her specific concerns about various incidents in the Chechen Republic had not been fully addressed. Specifically, it appeared that Order No. 80 was not being complied with. What practical steps were the authorities taking to ensure that it was enforced? Finally, she would have appreciated more detailed statistics on the hazing of conscripts.

71. Mr. RASMUSSEN, speaking as Alternate Country Rapporteur, asked the Russian authorities to consider removing the metal shutters from the cell doors in remand centres, since they prevented communication and deprived the occupants of adequate light and ventilation.

The meeting rose at 6 p.m.