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Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture
Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Seventeenth session

Summary record of the first part (public)* of the 6th meeting
Held at the Palais des Nations, Geneva, on Wednesday, 20 June 2012, at 3 p.m.

Chairperson: Mr. Evans

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* The summary record of the second part (closed) of the meeting appears as document CAT/OP/17/SR.6/Add.1.

The meeting was called to order at 3:10 p.m.

Thematic discussion on mental health in places of deprivation of liberty (*continued*)

1. **The Chairperson**, welcoming the invited experts, representatives of NGOs and other participants, said that the Subcommittee had decided to conclude the thematic discussion with a public meeting to enable it to share the lessons learned from the training it had received on monitoring of mental health institutions at the previous two meetings. The training could not have been provided without the support of the Government of Germany.

2. **Mr. Scharinger** (Germany) said that training played an important role in the process of reforming and humanizing mental health care systems around the world. Under the Nazi regime, his country's own mental health care system had been perverted, resulting in the maltreatment and murder of many persons with mental and intellectual disabilities. His Government was seeking to ensure that the mistakes of the past were not repeated in the future. In that spirit, in 2000 it had established the foundation Remembrance, Responsibility and Future as part of the follow-up to the negotiations on compensation for victims of forced labour. The foundation now worked with young people on awareness-raising and prevention initiatives. The Subcommittee's preventive work was vital, and his Government was pleased to support it.

3. **The Chairperson** said that the expansion of the Subcommittee's membership had allowed it to address a broader range of topics thanks to the broader range of expertise on which it could draw. One such topic was the very important issue of mental health. Following the thematic discussion, the existing working paper on the issue (CAT/OP/IS/R.6/Rev.1) would be revised and updated. The new draft would be transmitted to those present at the meeting and other relevant stakeholders for comments, which would then be incorporated prior to the final issuance of the paper.

4. **Mr. Meux** (Senior Lecturer in Forensic Psychiatry, Oxford University, United Kingdom) said that mental disorders were widespread, a fact acknowledged by the World Health Organization. In his opinion, there were treatments that could assist persons suffering from mental disorders. Those treatments included medication in certain cases, combined with multidisciplinary interventions, psychological counselling and psychosocial rehabilitation.

5. He welcomed the Subcommittee's plans to visit persons detained in psychiatric institutions, as such visits would raise the profile of, and increase debate on, mental health issues. The Subcommittee should seek to identify not only overt ill-treatment, such as physical or emotional abuse, but also inhuman or degrading conditions. In addition, it should ensure that treatment known to be safe and effective was indeed provided, and in a proper manner. Lastly, it should ascertain whether appropriate legal safeguards were in place. He wished to urge the Subcommittee, when engaging with national authorities, to make it clear that institutional care should be used as a last resort and to encourage the allocation of resources for deinstitutionalization. He hoped that the Subcommittee would receive support from the broader United Nations system.

6. **Ms. Santegoeds** (Action Group Rage against Isolation/Mind Rights Foundation, Netherlands), noting that she was a survivor of mental health treatment, said that there were discrepancies between international instruments on mental health issues and the views of practising psychologists. For example, while the Convention on the Rights of Persons with Disabilities prohibited any form of forced treatment, many psychologists were of the opinion that, in some cases, treatment should be given even if it was not voluntary. It must, however, be noted that forced treatment did not always help.

7. **Ms. Sheldon** (Care Quality Commission, Norwich, United Kingdom) said that there were many different — sometimes equally valid — perspectives with regard to treatment

for mental disorders and that it was therefore important to listen to and take account of other views. Having been a user of mental health services, she had subsequently become involved in advocacy, providing training and information to relevant actors. That work had led her to participate in monitoring visits to places where people were detained under mental health legislation. Being able to share her own experiences of the mental health care system had been empowering. Moreover, her participation had helped to change attitudes among both service users and providers. She had also added value to visiting teams, since she often looked at different aspects of care from other team members. Involvement of persons with personal experience of mental illness and mental health services was thus an important tool to improve both monitoring of the system and the system itself.

8. **Mr. Tesfaye** (Head of the Department of Psychiatry, Jimma University, Ethiopia) said that in developing countries the main issue with regard to mental health was the right of access to appropriate psychiatric care, which was often not available to persons detained in institutions. In communities, persons suffering from mental illness and managed by their families were often physically restrained for long periods. The Subcommittee could play a vital role in advocating for the allocation of resources to mental health services and the extension of such services to ensure that they reached those in need.

9. **Mr. Hauksson** (Head of the Psychiatric Department, Reykjalundur Rehabilitation Centre, Iceland), recalling his experience as a former member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), stressed the importance of independent monitoring of psychiatric institutions and social care homes, which could have a significant impact on persons detained in such facilities.

10. **Mr. Lehtmets** (Head of the Centre for Psychiatry, West Tallinn Central Hospital) said he understood, as a former CPT member, that visiting places where persons with mental illness were deprived of their liberty was an extremely difficult task. However, independent monitoring was vital, since persons detained in mental health institutions were less likely to file complaints than those held in prisons. The mandate of the Subcommittee was so broad that it limited its ability to conduct visits regularly to institutions; increased cooperation and collaboration with local visiting mechanisms was therefore needed in order to ensure a sufficient level of monitoring.

11. **Ms. Murray** (Human Rights Implementation Centre, University of Bristol, United Kingdom), speaking on behalf of the Optional Protocol Contact Group, said that she would welcome clarification on a number of points with regard to the preparation of the revised working paper on mental health and detention: who would be consulted on the draft; whether the Committee on the Rights of Persons with Disabilities would be involved; how the Subcommittee would engage with States and national preventive mechanisms during the drafting process; whether it would be possible to hold a day of discussion with relevant stakeholders on the draft; and whether the paper would be translated to enable wider engagement.

12. With regard to the content of the paper, it was not clear whether it would focus on visit methodology, standards or other substantive issues. In that connection, she urged the Subcommittee to consider mental health care in all places of detention, not just mental health institutions. Lastly, she asked whether the Subcommittee would follow up on the work done during the training session by establishing a thematic working group or arranging further training on the issues addressed.

13. **Ms. Lee** (International Disability Alliance) stressed that the Committee on the Rights of Persons with Disabilities should be consulted during the drafting of the revised working paper in order to ensure the paper's coherence with the Convention it monitored. Noting the recommendations made by previous speakers regarding conditions and safeguards in places where persons with mental illness were deprived of their liberty, she

urged the Subcommittee to look beyond those issues to the question of the need for involuntary institutionalization and the possibility of developing community-based services and support. The European Committee had taken proactive steps in that regard, issuing recommendations for the closure of institutions and assessing national deinstitutionalization plans and their implementation. Following its consideration of the combined fourth and fifth periodic reports of the Czech Republic, the Committee against Torture had adopted concluding observations (CAT/C/CZE/CO/4-5) that mirrored that approach. Monitoring should not be seen as an end in itself, but rather as the minimum standard to avoid abuse and ill-treatment.

14. **Ms. Karsay** (Mental Disability Advocacy Centre) welcomed the comments made regarding institutionalization and the involvement of service users in monitoring activities. Echoing the views of other speakers, she stressed the importance of collaboration with the Committee on the Rights of Persons with Disabilities on the issue of mental health, as well as the need for synchronized and coherent efforts by all relevant United Nations bodies.

15. **Mr. Pross** said that the discussion had been extremely useful and that members of the Subcommittee would now be better prepared to undertake visits. He welcomed the presentation on deinstitutionalization in Georgia given at the previous meeting, which had shown the measures taken to transform an ex-Soviet mental health care system into a more community-based one. The success of the process could be traced to the work of CPT and the national preventive mechanism, which had persuaded the Government of the need for reform. The revision of the working paper would take into account all of the guidance received from experts during the training and the comments made at the current meeting, as well as the information and papers previously submitted.

16. **Mr. Rodríguez Rescia**, welcoming the participation of NGOs in the meeting, said that such organizations could add value to the work of the Subcommittee. The recent visit to Argentina had included visits to psychiatric institutions, which would not have been as successful without the input of NGOs; the experience should be replicated during future country visits. Approaches to torture prevention in psychiatric institutions were still being developed; that process could not be the sole preserve of the Subcommittee or indeed of the European Committee. He therefore welcomed the inclusion in work on mental health issues of users of mental health services, as they were best placed to talk about the realities on the ground. The Subcommittee would likewise benefit from having among its members persons who had direct experience of torture and inhuman or degrading treatment. Training for all members was an important and continuous process. The Subcommittee needed to consider how it would transfer to the new members to be elected at the end of 2012 the knowledge it had acquired of mental health issues. He would appreciate further engagement with civil society organizations. They should be encouraged to provide the Subcommittee with country briefs prior to visits, to engage more actively with national preventive mechanisms and to propose experts for inclusion in rosters.

17. **The Chairperson** said that, as the Subcommittee was only able to make periodic visits to countries, which were often of short duration and covered a wide range of institutions, it relied on the national preventive mechanisms to carry out further visits. It provided guidance to those mechanisms on visit methodology and on the required depth and frequency of visits. While NGOs should be encouraged to continue to engage with the Subcommittee regarding its work and working methods, they should also be in contact with the national preventive mechanisms, which were best placed to act on their recommendations and advice.

18. **Ms. Højring** (Rehabilitation and Research Centre for Torture Victims) said that in Denmark the national preventive mechanism was currently focusing on mental health in places of deprivation of liberty but had made plans for visits to psychiatric institutions. She

requested clarification as to whether the training provided at the previous two meetings had focused solely on psychiatric institutions or had covered all places of detention.

19. **Mr. Pross** said the Subcommittee was aware that, in some countries, persons suffering from mental illnesses were detained in prisons. The related issues fell within the mandate of the Subcommittee and would be reflected in any guidelines produced.

20. **Mr. Meux** (Senior Lecturer in Forensic Psychiatry, Oxford University, United Kingdom) said that the training had focused on psychiatric institutions, but that other places of detention had also been considered, together with other pertinent issues such as drug and alcohol abuse, police detention, confinement of older persons and children in care homes, and detention of migrants in immigration centres. There was scope for more discussion on all of those issues.

21. **The Chairperson**, responding to the questions on the preparation of the revised working paper, said that there was no definitive list of stakeholders to be consulted and that all suggestions concerning the paper's content would be welcome. Steps would be taken to engage with the stakeholders already mentioned, particularly national preventive mechanisms, the European Committee and relevant United Nations bodies and actors, in order to ensure coherence across the different areas of activity and with other outputs. He pointed out that, owing to the practical nature of the Subcommittee's work, the paper produced at the end of the consultation process might look different from those produced by other treaty bodies, despite the fact that it addressed similar issues in similar ways.

22. **Ms. Huber** (Penal Reform International) suggested that the Subcommittee could work with the Committee on the Rights of Persons with Disabilities to define more clearly the respective roles of the national preventive mechanisms and the monitoring bodies to be established under the Convention on the Rights of Persons with Disabilities. There was also a need to consider further the role of doctors in mental health institutions who, though they had a curative mission, were employees of the institutions. Thus far, the Subcommittee appeared to have taken a medical approach to the issue of mental health. She wished to know whether that was because the Subcommittee lacked expertise in the area or whether it had deliberately chosen such an approach. With regard to the revised working paper, a day of discussion on the draft would be most useful.

23. **Mr. Kjærum** (International Rehabilitation Council for Torture Victims), noting that States had sometimes reacted negatively to thematic papers prepared by other treaty bodies, urged caution when the Subcommittee presented the revised working paper to States parties.

24. **Ms. Kletzel** (Centre for Legal and Social Studies, Argentina), emphasizing the importance of holding a day of discussion on the draft, said that national NGOs should be included in any such discussion, whether by remote or in-person participation, as it was vital to engage with actors in the field. She noted that the workshop on monitoring mental health institutions had not been attended by an expert from Latin America; participation of such an expert would have provided another perspective.

25. **The Chairperson** said that the Subcommittee had placed particular emphasis on visiting mental health institutions during its recent visit to Argentina. It took a medical approach to the issue of mental health largely because that was the approach adopted in many countries, making it a logical starting point for dialogue with States parties and institutions. The discussion at the preceding meetings had shown that other avenues could also be explored. The exercises conducted at those meetings should be seen as a form of practical training to enable Subcommittee members to deal with the kinds of situation that might arise during visits to places of deprivation of liberty.

26. While the Subcommittee would like to see more civil society organizations represented at its public meetings and welcomed proposals for days of general discussion, its resources and meeting time were limited.

27. **Mr. Tayler Souto** said that he supported the idea of a public day of general discussion and that the Subcommittee would give it full consideration.

28. **Mr. Pross** said that the Subcommittee had gone beyond a purely medical approach to mental health issues. At the preceding meeting, for example, the role of natural healers in mental health care in countries such as Ethiopia had been addressed. It had been concluded that cooperation between them and mainstream medical and psychiatric practitioners was needed. There were so few such practitioners in Afghanistan that lay counsellors were being trained in order to cope with that country's considerable mental health care needs.

29. **Ms. Schulze** (Monitoring Committee for the Implementation of the Convention on the Rights of Persons with Disabilities, Austria) urged the Subcommittee, during its country visits, to raise awareness among States parties of article 16, paragraph 3, of the Convention on the Rights of Persons with Disabilities in order to ensure that places in which persons with disabilities might be held against their will, including sheltered workshops and special education facilities, were independently monitored. While the medical approach to mental health care was a useful starting point, the Subcommittee should adopt a multidisciplinary, bio-psychosocial model inspired by human rights standards. The Subcommittee might wish to familiarize itself with the ITHACA Toolkit for Monitoring Human Rights and General Health Care in Mental Health and Social Care Institutions.

30. **The Chairperson** said that the Subcommittee was acquainted with the ITHACA Toolkit.

31. **Ms. Sheldon** (Care Quality Commission, Norwich, United Kingdom) stressed that patients should be involved in all stages of dialogue on mental health issues.

32. **Ms. Santegoeds** (Action Group Rage against Isolation/Mind Rights Foundation, Netherlands) said that nurses in mental health institutions were more likely than doctors to be sympathetic to patients and should therefore also be included in any such dialogue. She emphasized that human rights violations took place in mental health institutions in even the wealthiest States.

33. **Mr. Hauksson** (Head of the Psychiatric Department, Reykjalundur Rehabilitation Centre, Iceland) underlined the importance of monitoring mental health care in prisons, which were increasingly being used as de facto mental asylums in some countries.

34. **Mr. Tesfaye** (Head of the Psychiatric Department, Jimma University, Ethiopia) urged the Subcommittee to assist developing countries with the establishment of national preventive mechanisms in order to prevent the use of torture in traditional mental health institutions.

The public part of the meeting rose at 4.35 p.m.