



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

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 711th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 11 May 2006, at 10 a.m.

Chairperson: Mr. MAVROMMATIS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.711/Add.1.

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The meeting was called to order at 10.05 a.m.

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

Second periodic report of the Republic of Korea (CAT/C/53/Add.2; CAT/C/KOR/Q/2;
HRI/CORE/1/Add.125 and Corr.1)

1. At the invitation of the Chairperson, the members of the delegation of the Republic of Korea took places at the Committee table.
2. Mr. KIM Joon-gyu (Republic of Korea), introducing his country's second periodic report (CAT/C/53/Add.2), said that the Government had made great efforts to implement the recommendations made by the Committee in connection with the initial report (CAT/C/32/Add.1). As a result there was now very little possibility that torture would occur in the country.
3. Giving a brief overview of the Government's efforts to improve the human rights situation since the consideration of the initial report, he said that in 1998, the "Government of the People" had launched numerous reforms and sought to reveal the truth about acts of torture committed under the former military dictatorship. That process had resulted in the establishment of the Presidential Truth Commission on Suspicious Deaths and the Commission on the Restoration of the Honour and Compensation of Persons Engaged in the Democratization Movement in 2002. An independent National Human Rights Commission (NHRC) had also been set up in 2001 to advise the Government on human rights policies and provide remedies concerning human rights violations.
4. After 2003, the "Participatory Government" had encouraged the participation of citizens in the implementation of policies to improve human rights. In February 2006, NHRC had recommended that a national action plan should be drafted by the end of the year. It was currently being discussed by the relevant ministries.
5. Turning to the issues raised in the second periodic report, he said that although the Criminal Code did not contain a specific definition of torture in line with article 1 of the Convention, acts of torture and other cruel acts were punishable under domestic legislation; no particular problems had been encountered in practice. Moreover, accomplices and persons who ordered or attempted torture were also punishable, which satisfied the requirements of article 4, paragraphs 1 and 2. A case in point was the ill-treatment and resulting death of a murder suspect at a district public prosecutor's office in 2002, for which the supervising prosecutor had been found guilty of charges of tacit consent and negligence and served 18 months in prison, although he had not been present when the act had been committed.
6. By 2005, NHRC had dealt with 2,342 complaints of ill-treatment and had contributed to the prevention of torture and other human rights violations. As a result of the more stringent enforcement of the law in general, the number of persons detained under the National Security Law had fallen from 619 in 1998 to 64 in 2005. Moreover, leniency measures, such as release, reduced sentences and pardons, had consistently been taken in respect of persons who had violated the National Security Law.

7. In December 1997, the Code of Criminal Procedure had been revised so that judges could examine suspects directly before their arrest if the latter so requested or the former deemed it necessary. Investigating agencies had taken various measures to prevent ill-treatment and ensure the openness of investigations, which had been stepped up in the light of the death of the murder suspect in 2002, resulting in the installation of surveillance cameras in interview rooms.
8. In September 1998, the Ministry of Justice had issued a directive on the elimination of human rights abuses in correctional facilities. Through amendments to the Criminal Administration Act in 1999, the use of restraint as a method of punishment had been prohibited. As a result of regular inspections of prisons and police stations by public prosecutors and NHRC, the human rights situation of detainees had improved.
9. Public officials working in investigative agencies, correctional facilities and the military were required to attend courses in human rights. His Government had also raised public awareness of human rights through media campaigns.
10. By 2004, the Presidential Truth Commission had identified a total of 30 deaths caused by illegal acts under the former authoritarian regime. Compensation had been provided to 493 victims for losses incurred during their participation in the opposition movement.
11. Various measures had been introduced to ensure respect for human rights in the armed forces, including the revision of the Military Criminal Administration Act, which had given detainees the right to file complaints.
12. There had been a number of noteworthy developments since the submission of the second periodic report in 2004; details were given in the written replies to the list of issues (document without symbol, available in English only). He would, however, mention a few key issues starting with the establishment of the Human Rights Bureau within the Ministry of Justice. The Government was taking particular precautions to prevent ill-treatment by public officials during law enforcement procedures and to ensure prompt investigations and remedies for victims. Departments specializing in human rights matters had been established within the police and the Ministry of Defence, and would cooperate with the Human Rights Bureau of the Ministry of Justice.
13. In March 2005, a female prisoner had committed suicide after being sexually assaulted by a prison guard during interrogation. As a result of the investigations into the case, the guard had been found guilty of similar acts involving 12 other women and was currently undergoing trial. In order to prevent the recurrence of such incidents, the Ministry of Justice had taken steps to ensure that only female guards could interview female prisoners and the walls of interview rooms had been replaced with transparent glass. Courses for prison staff on the prevention of sexual violence had been stepped up, and a human rights violations hotline had been established in the Human Rights Bureau for female prisoners who were victims of sexual violence.
14. The revision of the Criminal Administration Act, which constituted a major reform in the treatment of prisoners, should come into effect in 2006 and would comprise the abolition of censorship, better treatment of female, elderly, disabled and foreign detainees, and the mandatory provision of medical equipment for regular health check-ups.

15. A bill containing amendments to the Code of Criminal Procedure aimed at strengthening human rights protection in the investigation process was currently under consideration by the National Assembly. It would guarantee the presence of a lawyer and stricter conditions for the use of evidence during interrogations and the prior examination of suspects by a judge in cases involving a detention order.

16. By March 2006, only five persons had been found guilty of violating the National Security Law. In the light of United Nations recommendations, a national debate was under way on the revision of certain provisions and even the repeal of the whole Law.

17. Owing to improvements in human rights conditions and other changes in the Republic, the Ministry of Justice had decided to withdraw the State party's reservations to articles 21 and 22 of the Convention. The matter was currently under discussion with other relevant State bodies, and it was hoped that pending ratification by the National Assembly, the reservations would be withdrawn in 2006. The Government was also doing its utmost to promote the ratification and ensure the entry into force of the Optional Protocol to the Convention so that NHRC would become responsible for visits to detention facilities.

18. The promotion and protection of human rights were priorities of his Government's national and foreign policy. The election of the Republic of Korea as one of the 47 founding members of the Human Rights Council showed that it was viewed by the international community as a country with a strong commitment to human rights.

19. It was now very difficult for human rights violations such as torture to occur in his country, as all government activities that had previously been tainted by acts of torture were now open to the scrutiny of the general public and human rights organizations. However, there was always room for improvement. His Government would continue its efforts to uphold human rights and looked forward to a constructive discussion with the Committee to that end.

20. Mr. LEE Seung-kyu (Republic of Korea), replying to the questions in the list of issues (CAT/C/KOR/Q/2), said that offences such as attempted acts of torture, the commission of torture, and giving an order to commit torture were punishable by articles 123-125 of the Criminal Code (question 1). Acts of cruelty and torture by public officials were also punishable under the relevant articles of legislation relating to specific crimes, military justice and the national intelligence service. Persons who were accomplices in, or attempted to commit, torture were also punishable under the law.

21. Several bills to amend or repeal the National Security Law had been submitted to the National Assembly since 2000, but as yet no decision had been taken (question 2). That was due to the fact that public opinion was still divided on the issue in view of the political schism between North and South Korea. Certain provisions of the Law that had proved problematic in the past were now enforced with discretion, and there were no longer any cases of its misuse.

22. In March 2000, the Supreme Public Prosecutor's Office had established a human rights department within each district prosecutor's office to investigate cases of human rights violations by public officials (question 5). Additional human and financial resources were unnecessary as

each district prosecutor's office functioned on the basis of existing resources. Public prosecutors were able to visit detention facilities under their supervision at any time, including detention rooms in police stations, in order to carry out inspections and investigate possible violations.

23. With regard to legal provisions to protect the rights of persons in custody, he said that in the event of arrest the suspect was informed of the facts constituting the offence, the reason for detention and his right to choose a defence lawyer (question 6). A lawyer was allowed to be present throughout the interrogation of his client. If a detention order was not requested within 48 hours of the arrest, the suspect was released. The judge of the district court who had received the request for the detention order had the right to examine the suspect beforehand. Any person who was arrested but subsequently released could not be arrested again in connection with the same offence unless other important evidence was found. Although undocumented migrant workers were detained in protection facilities prior to deportation, such facilities differed from prisons in that detainees were free to receive visits, exchange letters and make phone calls, save in exceptional cases, and were guaranteed access to their legal counsel.

24. Of the 19 cases of suspicious deaths caused by the unlawful conduct of law enforcement officials mentioned in the report (paras. 66 and 67), only one case had been brought to prosecution (question 7). In nine cases compensation had been awarded, in six cases the question of compensation was under review, three cases had not been decided, and in one case the compensation claim had been dismissed.

25. Article 11 of the Constitution prohibited discrimination on grounds of gender (question 8). Discriminatory activities on grounds of gender in detention facilities were also prohibited under other laws, including the Criminal Administration Act.

26. All police officers received regular human rights training on the elimination of all forms of gender discrimination and sexual harassment. The Ministry of Justice invited experts to give lectures on the prevention of sexual harassment at least twice a year and provided audio-visual training and cybertraining for prison staff. Female prisoners were also given training on how to combat sexual violence.

27. According to article 7, paragraph 4, of the Extradition Act, no criminal should be extradited when it was deemed that he or she might be punished or suffer unfavourable treatment for reasons of race, religion, nationality or membership of a particular social group. Under article 64, paragraph 3, of the Immigration Control Act, no refugee could be repatriated to a country in which deportation or repatriation was prohibited (question 9). Thus a person could not be extradited to a country in which the Republic of Korea deemed he or she might be subjected to torture. The International Criminal Affairs Division of the Prosecution Bureau and the Research and Education Division of the Immigration Bureau were in charge of extradition matters and criminal legal cooperation. A deportation order must be issued in accordance with article 59, paragraph 2, of the Immigration Control Act, but a suspect could object to the order under article 60 of that Act. Judicial remedy procedures were also available for legal action against expulsion orders. The court could decide to suspend the execution of expulsion orders where it would clearly result in loss of life, health or property.

28. Investigative agencies had scientific investigation teams that could prove cases of torture through DNA identification techniques and autopsies (question 11). The teams trained guidance counsellors and medical staff to perform those duties.

29. No human rights violations had been found during the 24 inspections of correctional facilities conducted by judges and prosecutors in 2001 (question 12). The same year, NHRC had conducted independent visits to investigate detention facilities under the National Human Rights Commission Act.

30. In 2002, NHRC had examined the detention conditions of 1,000 prisoners at 18 facilities through questionnaires and interviews, the findings of which had been compiled in a 100-page booklet (question 13). As a result of the survey, NHRC had recommended the revision of the Criminal Administration Act so as to ensure correct procedures for the submission of complaints, educational programmes for prisoners on the complaints system and the confidentiality of complaints submitted.

31. The human rights situation of detainees and conformity with relevant regulations were monitored pursuant to the Ministry of Justice's directive on the elimination of human rights abuses (question 14). It had served not only to enhance the rights of detainees but also to raise the awareness of staff at correctional facilities.

32. The use of restraint was regulated by presidential decree and the type of devices used was determined by the Ministry of Justice. Restraint was used as little as possible, taking into account the age, personality, health and record of the detainee in question, and the degree of threat he posed.

33. Following a decision of the Constitutional Court in July 2002, the National Police Agency had, in January 2003, revised its regulations relating to the detention and transportation of suspects (question 15). There had been no cases of excessive body searches since that date.

34. Most of the complaints filed against public officials for violence or other cruel acts amounted to unsubstantiated expressions of dissatisfaction (question 16). Only a very small number of cases had resulted in indictment.

35. NHRC members were free to visit prison cells or detention rooms and to interview detainees without the presence of staff of the facility concerned (question 17). Details of complaints of cruel treatment received in detention facilities and investigated by prosecutors or the police were provided in the written replies. While investigations by prosecutors were conducted for the purpose of punishing the accused, NHRC dealt with complaints requesting the restoration of rights of persons who had suffered violations.

36. The investigations into the death of a murder suspect in 2002 had resulted in nine people being charged, including the prosecutor involved. Six had been found guilty (question 18). The prosecutor had received an 18-month prison sentence and the three investigators who had committed torture were serving prison sentences of 24-30 months. Regarding deaths in custody, none of the 21 suicide cases reported had been the result of cruel treatment by prison officers, but were linked to illness and depression. The written replies contained statistics showing the number of deaths in custody, and the reasons.

37. Turning to the issue of statements made as a result of torture (question 22), he said that when suspects were questioned, they were informed of their right to refuse to answer questions and to have a lawyer present. In that way, torture was prevented from the outset. In the event of an allegation that a statement had been made as a result of torture, it was up to the prosecutor to prove that torture had not been committed.

38. In March 2006 the number of prisoners serving life sentences had been 1,067 (question 24). Time limits were placed on the use of handcuffs and other measures of restraint, and there were no specific measures of restraint for extended periods. Regarding solitary confinement (question 25), 8,443 of the 14,956 detention rooms were shared and 6,513 were for single occupancy. A total of 974 single cells were reserved for disciplinary measures, which were smaller in size than regular single cells but had similar facilities, including windows.

39. He had not addressed questions 3, 4, 31, 32, 34, 35 and 36 as they had been covered in the opening statement by the head of the delegation. For information on questions 10, 17, 19, 20, 21, 23, 26, 27, 28 and 29, he referred the Committee to the written replies.

40. Photographs of interview rooms and detention facilities were projected.

41. Mr. LEE Seung-kyo, commenting on the photographs, drew attention to the improvements that had been made in an effort to prevent the commission of torture, such as greater openness to the public, the use of CCTV cameras and full recording equipment for use during interviews.

42. Ms. GAER, Country Rapporteur, thanked the delegation for its excellent report and response to the list of issues, and noted the many improvements that had been made in the past 10 years. She congratulated the Republic of Korea on its election to the Human Rights Council, which demonstrated the country's commitment to human rights issues. She particularly welcomed the establishment of NHRC, the degree of access it had been given to detention facilities, and its investigative and recommendatory powers. She had noted with interest the recommendation to withdraw the reservations to articles 21 and 22 of the Convention, and asked when that would come into effect. She had also noted that the Republic of Korea had signed the Optional Protocol, and would welcome information on the ratification process.

43. She had been struck by the fact that almost no people had been shown in any of the photographs presented. Not only were people a useful indicator of prison conditions, they were also an important element in the Committee's review process.

44. In relation to the absence from Korean legislation of a clear definition of torture, she had noted that all acts prohibited by the Convention were covered by the Criminal Code and would be prosecuted. However, no specific examples had been given (question 1) on the penalties imposed for offences such as attempted torture, the commission of torture or giving an order to commit torture; she would appreciate information on those points. Similarly, it had been stated that "cruel acts" were defined broadly so that all acts of torture, as well as inhuman or degrading treatment or punishment, could be punished. She called for a more precise definition of cruelty, or "cruel acts", and the types of offences they covered. Did legislation contain any reference to mental suffering, for example, or to motive or intention, or to acts of discrimination?

45. According to the report received from NGOs, article 125 of the Criminal Code was only applicable to acts committed by persons involved in investigative and trial processes; acts falling outside the scope of that article were dealt with under other articles of the Code and carried less severe penalties. Reference had been made to a 1992 decision of the Gwangju High Court, which had found article 125 to be inapplicable in a case involving a prison officer charged with torturing a detainee. Was it true that various offences constituting torture were dealt with differently under the Criminal Code and were not subject to the same penalties? How would a case involving torture inflicted by a prison officer on a detainee, outside investigative or trial processes, be dealt with?

46. In relation to the 2002 case involving investigators of the Seoul District Public Prosecutor's Office and the torture of several murder suspects, resulting in the death of one suspect, she sought clarification of the grounds on which two of the five individuals indicted for assisting in the act of torture had been granted a suspension of sentence, and asked for information on the situation of the other suspects alleged to have been tortured, including details of any investigations, their outcomes, and whether any remedies or compensation had been provided. She also wished to know, in view of the discrepancy between the NGO report and the State party report, whether there had been eight or four victims.

47. Noting the dramatic reductions reported in the number of people detained in relation to the National Security Law (question 2), she recalled the assertion in the written replies that the exact number of convicted cases based on confessions was unobtainable and that most offenders confessed voluntarily. In the absence of data, she wondered how that assertion was possible, and asked how the Government systematically ensured, in practice, that convictions under that Law were not based on confessions made as a result of torture?

48. Referring to the measures described to extend leniency to violators of the National Security Law, she asked: what remedies had been provided to those pardoned or found to have been improperly or arbitrarily detained; whether any programmes existed to treat long-term prisoners who had been released; how many individuals serving long-term sentences remained in prison; and what action had been taken with regard to those individuals.

49. In connection with allegations by Amnesty International that the Security Surveillance Law enacted in 1989 had been applied in an arbitrary and secretive way so as to threaten and harass former prisoners, she asked for more information on that Law, and how it was applied.

50. She sought clarification of the grounds on which 18 of the 42 members of the Hanchongryon student organization wanted for violations of the National Security Law were to be granted leniency through non-restraint investigation, and would welcome information on the action to be taken and penalties to be imposed on the other 24 members. Similarly, she would appreciate further information on the process and time frame for the proposed repeal or revision of the National Security Law.

51. Bearing in mind the assertion that acts of torture and harsh treatment during investigations had been almost eliminated (question 3), she asked the delegation to comment on allegations in the NGO report that torture, including sleep deprivation and beatings, was still widely practised by interrogators, and on the case cited in the Yonhap News on 5 July 2005 of an

entertainment manager being dragged naked by investigators from the Central Prosecutor's Office in Seoul. Had any convictions been secured, and penalties imposed, for the practice of forced nakedness? And what measures had been taken to disseminate, provide training on and enforce the Directive for Human Rights Protection during Investigation Procedures?

52. It had been indicated that immediate correctional measures had been taken in response to human rights violations in detention facilities (question 5), the number of which, she noted, had increased between 2003 and 2005, and that most cases had been minor. She would appreciate more detailed information on those cases, including what kinds of human rights violations were involved; what correctional measures had been taken; what penalties or disciplinary measures had been involved; and what remedies provided to victims.

53. She asked for information on the use of "urgent arrests" (question 6) including: recent data on the number of such arrests; the applicable legal provisions and the steps taken to guarantee the rights of persons under "urgent arrest"; whether those individuals were granted access to legal counsel; and what measures had been taken to monitor or regulate the use of such arrests.

54. Referring to the reported case of a female inmate who had attempted suicide after being sexually assaulted by a prison guard, and had later died (question 8), she sought clarification of the action taken in response, and in particular, whether the Attorney-General had taken legal action against the officials at both the detention centre and the Seoul Regional Correction Headquarters, who were alleged to have attempted to cover up the incident or minimize its importance. Was gender-based and sexual violence monitored in places of custody, if so how, and what had the findings been? To what extent were female inmates now supervised by female rather than male prison guards?

55. She sought clarification of the frequency of visits to detention facilities by public prosecutors (question 5) in view of the example of only 10 violations being found in the course of approximately 2,000 visits. Had any illegal restraints been found during those inspections?

56. She expressed concern at allegations by NHRC of limits being placed on the right to counsel during interrogations, and sought clarification of the application of those limits and of the "justifiable reasons" for them that had been mentioned.

57. In view of the assertion that "a person will not be (and has not ever been) extradited to a country in which Korea deems that the criminal might be subject to torture" (question 9), she asked for further information on the case of the migrant worker, Mr. Shamatapa, who had been forcibly repatriated to Nepal in April 2004 despite an alleged risk of torture.

58. She asked for clarification of the content and applicability of the provisions of the Immigration Control Act and, in particular, how the prohibition on return or extradition under article 3 was guaranteed in practice in relation to those provisions. Also, what was the status of the proposed revision of that Act?

59. Further information on measures taken to reform the national refugee and asylum system, and on the monitoring of their effectiveness, would be welcome. Also, what were the mandate and powers of the new nationality and refugee unit?

60. UNHCR had reported a sharp increase in asylum applications in 2005 compared with 2004, including from people held in detention centres. She wondered whether that could be linked to a possible crackdown on the number of illegal migrants, and asked for information on the number of migrants held in detention centres. What legal or administrative provisions existed to safeguard their rights? Also, were migrant detainees separated from the general prison population?

61. Turning to article 4, she said that the explanation given for the discrepancy between the low number of indictments and the high number of complaints of torture (question 10) was the vagueness of the complaints. Had any measures been taken by the Government to inform detainees what specific information they should include in such complaints?

62. The written replies to question 22 described a variety of measures intended to ensure that a statement made under torture would not be invoked as evidence of guilt in any proceedings. Could the delegation comment on claims in the NGO report that criminal trials regularly placed great reliance on investigation records, thus encouraging investigators to obtain confessions from suspects? In the light of those claims, how did the Government ensure in practice that statements made as a result of torture were not invoked as evidence of guilt in any proceedings, in line with article 12 of the Constitution?

63. In response to question 27, it was stated that data regarding the number of women and children trafficked for purposes of prostitution were unavailable; yet the claim was simultaneously made that the figures for human trafficking for prostitution and for prostitution in general had decreased. In the absence of data, what was the basis for that claim? What steps were being considered or had been taken to establish a national or systematic data-collection system in that regard? How many cases had been prosecuted under the relevant law, and what had been the outcomes?

64. With reference to article 16 of the Convention, the NGO report alleged that an average of 3,600 individuals a day were held in poor and overcrowded conditions in “substitute cells” in police stations, and that female detainees were often monitored by male police officers. Could the delegation comment on that allegation? Had inspection of such “substitute cells” been conducted by government officials, public prosecutors or NHRC members? Did NGOs have access? What efforts had been made to improve conditions or to eliminate the use of such cells?

65. The written responses to questions 24 and 25, which also requested information on restraints, only provided data on the number of prisoners in solitary confinement and on the number of cells used for disciplinary purposes. Information from Amnesty International stated that, despite a December 2003 announcement by the Ministry of Justice banning consecutive solitary confinement, reducing the maximum period of solitary confinement from two months to one month, and abolishing the use of leather belts to restrain prisoners, the use of long chains and facemasks to discipline prisoners was not prohibited and in fact continued. The Committee needed more information on the conditions governing the use of solitary confinement, on any guidelines for determining the period of confinement, and on the practice and prevalence of the use of restraining or disciplinary devices.

66. With regard to question 26, she understood that a bill to amend the June 2005 Special Act for Punishing Domestic Violence, currently under discussion by the National Assembly, specifically recognized spousal rape as a crime. More detailed information was needed on the content of that bill and its current status. Were the measures to prevent and address domestic rape described in the delegation's written reply also applicable to spousal rape? Were reported cases investigated? Had any legal or protective measures been adopted to overcome the natural reluctance of victims to bring such cases forward?

67. With reference to question 21, she was troubled by the unusually high number of reported suicides in the military. The claimed decline in the numbers of such suicides did not seem statistically significant. It was said that no suicides had been directly caused by violence or cruel acts committed by senior officials. What then was being done by way of counselling or protective measures to reduce the incidence of suicides in the military?

68. Ms. SVEAASS, Alternate Country Rapporteur, expressed appreciation for the openness with which the Republic of Korea had acknowledged shortcomings in its human rights record.

69. The reply to question 11 focused on forensic medicine. She would welcome more information on the training of medical personnel for the clinical assessment and follow-up of victims of violence and torture. She wanted to hear more about the support centre for victims established in every prosecutor's office. In that connection it would also be interesting to learn about the impact of the international trend for the health professions to develop codes of medical ethics.

70. Concerning the reply to question 12, she wished to know whether the 54 prison inspections carried out from 2002-2004 represented an annual or an overall figure. Were the judges and prosecutors who performed the inspections really independent? Why was it that the inspections did not result in any punishment or disciplinary action? She would also like an explanation of the discrepancy between the information given on site surveys by NHRC and references by the Commission itself to certain difficulties in gaining access to detention facilities.

71. She was impressed by what was reportedly being done to ensure the effectiveness of the Directive on Eliminating Human Rights Abuses in Correctional Facilities (question 14), including the emphasis on human rights education. At the same time, the Committee had received reports of an individual being confined in a disciplinary cell for three months with his wrists and ankles chained for over 100 hours. Another case concerned the manacling of a prisoner's ankles while he was receiving dialysis treatment. She would like more information on policy and practice regarding the use of such restraints.

72. With reference to question 16, she was concerned that there might be a loophole in the Republic of Korea's Criminal Code (arts. 123-125), which restricted the indictment of public officials on charges of violence against detainees to personnel involved in investigative activities. What provision was there for the prosecution of abuses by other classes of staff within detention facilities? It was also notable from the State's replies that the number of officials prosecuted for acts violence in 2003 and 2004 was extremely limited in relation to the number of complaints lodged. In that connection, she would like clarification of NHRC's rights of access to detention facilities and its capacity to influence regulations governing interrogation.

73. Concerning sudden deaths in custody, she wished to know the composition of the Presidential Truth Commission on Suspicious Deaths, and whether NGOs, family members and other affected individuals were represented. What kind of evidence could the Commission assess and what was its degree of independence? In view of the statement in the State's written reply that 97 of the 148 prison deaths from 2001 to 2005 had been due to illness, she requested information about the access of inmates to medical care.

74. She also wondered, as a psychiatrist, how it was possible to categorize the causes of the 48 reported suicides in terms of "depression or guilt over the crime committed"? To have so much as a hypothesis in that regard, the Truth Commission would have had to consult the medical records of the deceased or interview their families. As to the statement that no suicide was the result of "cruel treatment by prison officers", it was always necessary to bear in mind - even if it was not applicable in the present case - that many forms of torture and cruelty were psychological and left no physical scar on the victims.

75. With reference to article 14 of the Convention, the very full account of the financial compensation paid for acts of violence and cruelty needed to be supplemented by information on redress in the form of medical, psychosocial and rehabilitation measures. What had been done to treat human rights activists who had suffered injury and to prosecute those responsible? How had conscientious objectors been aided and what were their rights? What had happened to the proposal by NHRC, reported previously to the Committee, concerning petition rights training for detainees? Finally, she would like an assurance that legislation in the Republic of Korea was adequate in scope to safeguard the human rights of all detainees.

76. Ms. BELMIR expressed concern that the provision in the legislation of the State party limiting a judge's term of office to 10 years and making its renewal dependent on an evaluation might introduce an element of instability into the functioning of the judiciary or compromise its independence. Were the evaluations based on objective criteria that could justify the non-renewal of a judge? Who exercised authority in the matter and what was the final court of appeal?

77. Moreover, a system under which a suspect could be imprisoned without first appearing before a judge, who heard the case only following a request for judicial review, gave excessive powers to the police. Amendments to the Code of Criminal Procedure, on which the Ministry of Justice was said to be working, were clearly essential.

78. The suggestion in the State party's reply that changes in the National Security Law were linked to a shift in public opinion was problematic. She recalled that the International Covenant on Civil and Political Rights provided that a person arrested or detained on a criminal charge should be brought promptly before a judge or other officer authorized by law to exercise judicial power and should be entitled to trial within a reasonable time or to release. A situation in which detention without trial could be prolonged in some circumstances for up to 50 days was unacceptable. The reported reduction in the number of cases of such extended detention was welcome if confirmed, but a serious risk of injustice remained. The only safeguard was to reinforce the role of the judiciary, which was essential to the protection of human rights.

79. Another issue concerned the detention of young offenders. Were they subject to the same rules of pretrial detention, or was there a law specific to minors? Were they separated from adults when kept in detention? Was there any provision for re-educating them? Were they liable to corporal punishment? Those and other issues, raised previously by the Committee and by the Committee on the Rights of the Child, needed to be addressed urgently.

80. Mr. KOVALEV expressed concern that already 10 years before, the Committee had recommended that the Republic of Korea review its reservations to articles 21 and 22. Those articles were of particular significance, being aimed at improving human rights in cases of torture and cruel treatment. What was preventing the Government from accelerating the process and adopting the articles in their entirety?

81. Mr. MARIÑO MENÉNDEZ sought clarification on the treatment of asylum-seekers. Was it correct that the law of the Republic of Korea discriminated between individuals who were already in the country and requesting asylum, and those requesting asylum at the border? Did treatment differ according to country of origin? Were nationals of the Democratic People's Republic of Korea given preferential treatment? How were asylum claims at the border examined with due regard for all safeguards? Could an official at the border deny the right of an individual to have an asylum claim processed? Were asylum-seekers accommodated together with immigrants? And how long did it normally take to reach a decision on their status?

82. When evidence was examined in criminal proceedings, did the judge base his decision on oral proceedings, or exclusively on written evidence? Evaluation of the use of torture was difficult on the basis of written evidence alone.

83. Mr. GROSSMAN commended the improvement in the human rights situation in the Republic of Korea, and congratulated the Government on its election to the new Human Rights Council. He stressed the crucial role played by NHRC in the implementation of the Convention's standards. He would welcome the delegation's views on: the valuable recommendations that had been issued to it by NHRC, in particular, on the definition of torture; the National Security Law; prisoners of conscience; the Hanchongryon student movement; the implementation of article 16 of the Convention, and the recommendations of the Committee. NHRC had clearly stated which of its opinions it considered to be duly reflected in the second periodic report, with observations ranging from "reflected" to "partially accepted" or "not accepted".

84. On the subject of compensation, he emphasized the importance not only of financial reparation but also of social rehabilitation. He wished to know whether there were any plans to bring article 7 of the National Security Law into line with the International Covenant on Civil and Political Rights. On what obscure legal grounds did torture by a prison guard not qualify as torture, but rather as assault, when committed on a convicted prisoner? Was the Government fully satisfied that the Immigration Act was in conformity with article 3 of the Convention, recognizing the notion of substantial grounds? He queried the concept of urgency in the light of the number of "urgent arrests", which considerably exceeded the number of arrests with a warrant. Was it considered that determination of the guilt or innocence of a suspect was effected solely within a trial, involving the participation of society, or that prosecutors' interrogations prevailed, or had both ideas been reconciled? Did rape by prison guards constitute an act of torture in Korea, in conformity with current international legal standards?

85. Mr. WANG Xuexian said that security was paramount to any nation, but in the light of the problems raised by some provisions of the National Security Law, he considered that a decision to repeal or amend it was long overdue. The number of persons arrested under the Law had been decreasing steadily, but was still too high; action should be taken by the National Assembly. He had noted a high number of cases of violence and deaths in detention facilities. Was there any evidence that the two were related? In addition, were suspects brought to detention centres examined by forensic doctors, and was the examination recorded? He was concerned at the statement that the use of corporal punishment was regulated in 70 per cent of schools in the country; he believed that it was high time to abolish it.

86. The CHAIRPERSON commended the efforts of the Government to further promote human rights, and the essential role played by NHRC in that respect.

The public part of the meeting rose at 12.45 p.m.