



**International Covenant on
Civil and Political Rights**

Distr.: General
27 October 2009

Original: English

Human Rights Committee
Ninety-seventh session

Summary record of the 2663rd meeting

Held at the Palais des Nations, Geneva, on Thursday, 15 October 2009, at 3 p.m.

Chairperson: Mr. Iwasawa

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(*continued*)

Sixth periodic report of the Russian Federation

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Sixth periodic report of the Russian Federation (CCPR/C/RUS/6; CCPR/C/RUS/Q/6 and Add.1; HRI/CORE/1/Add.52/Rev.1)

1. *At the invitation of the Chairperson, the members of the delegation of the Russian Federation took places at the Committee table.*
2. **Mr. Matyushkin** (Russian Federation) drew attention to ongoing efforts to strengthen his country's judicial system, particularly in terms of increasing public confidence in and access to justice, improving the quality and effectiveness of court procedures and the execution of sentences, and ensuring the independence of the courts. Compensation had been paid from the State budget to more than 100,000 families who had lost their homes in the active phase of the anti-terrorist operation in the Chechen Republic. His Government continued to observe a moratorium on the use of the death penalty, despite consistent public support for its retention.
3. In recognition of the fundamental importance of children's rights, a national children's rights institution had recently been created, with the power to request information and materials from the federal authorities, visit federal bodies to monitor their activities, and recommend measures to ensure that children's rights and freedoms were not jeopardized.
4. His Government recognized the value of the media and the need to update regulatory legislation in that field in order to reflect technological developments. He drew particular attention to a national council established by the President in April 2008 to develop civil-society and human rights institutions. The council had held constructive dialogue with civil-society and non-governmental organizations (NGOs) in a range of rights-related areas. Based on its findings, amendments had been made to relax legislation on NGOs. Acts had been passed to guarantee political parties equal access to, and coverage on, State radio and television channels and to reduce the minimum age for membership of a political party. The Government also pursued an active policy of defending rights and freedoms and national and ethnic minorities.
5. All communications examined by the Committee under the Optional Protocol to the Covenant were given due and detailed consideration by the appropriate Russian authorities, the results of which were transmitted to the Committee within the deadline set. Decisions of the Committee were published periodically and forwarded to judges of the Supreme Court. Measures to raise awareness of the Covenant and the Optional Protocol among public officials were carried out regularly and information on their implementation was published quarterly.
6. **Mr. Sizov** (Russian Federation) outlined the significant changes that had taken place in the Russian prosecution system since September 2007, particularly with regard to the creation of a new Investigation Committee. The functions assigned to the new Committee and those which remained the responsibility of the Office of the Procurator-General were described in detail in the State party's written reply to question 2 of the list of issues. The changes were intended to ensure the necessary balance between an effective prosecution system and protection of human rights. Particular attention was given to the investigation of crimes committed against local populations during anti-terrorist operations. Military courts alone had examined 135 such cases; 166 army personnel had been convicted and punished. If violations of criminal procedure legislation were suspected, law enforcement agencies would begin criminal investigations.

7. In his view, there was no need to establish a separate body to investigate human rights violations during the anti-terrorist operation in the Chechen Republic, as it would duplicate the work of existing bodies. The operation had been regulated by the 2006 Federal Law “On counteracting terrorism”, which provided for certain measures and temporary limitations to protect the vital interests of individuals, society and the State, in accordance with article 4 of the Covenant. Cooperation with civil society, international organizations and other groups was fundamental in fighting terrorism. Russian legislation provided for compensation and rehabilitation measures for victims of terrorist acts and for protection measures for victims and witnesses.

8. A wide range of initiatives were under way at national and regional level to prevent terrorism and extremism by promoting tolerance, combating racism and xenophobia, and fostering inter-ethnic and intercultural harmony. The activities of 9 social and religious organizations and 18 terrorist groups were banned within the Russian Federation, and participation in the activities of any extremist group was discouraged, with offences prosecuted where possible. A list of materials considered extreme by the courts was published in the press and on the website of the Ministry of Justice. He was unable to provide any information on prosecutions of social and religious organizations for extremist activities.

9. **Mr. Davidov** (Russian Federation), drawing attention to the fact that international instruments ratified by the Russian Federation took precedence over its domestic legislation in the event of conflict between them, recalled that detailed information had been provided concerning the communications from Russian citizens considered by the Committee under the Optional Protocol to the Covenant. He pointed out that all the violations identified had taken place between 1989 and 1999, when the 1960 Criminal Procedure Code had still been in force, and related to unsatisfactory criminal procedures. The new Code, adopted in 2001, fully remedied the situation, regulating the situation of individuals under detention and ensuring that they received the necessary legal protection, inter alia in relation to the actions of officials involved in criminal investigations.

10. The Committee’s findings were discussed and disseminated widely among the judiciary. Various measures had been introduced in order to fight corruption and ensure the independence of judges, which was essential in guaranteeing the right to a fair trial. They included the approval of a national plan to fight corruption, the adoption of a new federal law and the amendment of several others. Existing and prospective judges were now required to submit an annual declaration of their earnings, property and debts and those of their spouse and dependent children, which could be published in the media on request. At the initiative of the Supreme Court, two laws had been enacted in 2009, one to ensure access to information on the activities and rulings of courts and one to restrict the immunity of judges. Of the country’s 31,000 judges, 24,000 were appointed by the Head of State, which served as a guarantee of their independence, while the rest were appointed by parliament or directly elected.

11. Further to the comments made by Mr. Matyushkin regarding the death penalty, he said that the President and parliament of the Russian Federation continued to support its abolition, but public opinion did not. A presidential bill proposing the abolition of the death penalty and the ratification of Protocol No. 6 to the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty, submitted in 1999, had never been withdrawn. In January 2008, the State Duma had rejected a bill from a member on lifting the current moratorium. As representatives of the people, however, parliament could not ignore the sole source of its authority. Abolition would be a matter of time.

12. **Mr. Gaidov** (Russian Federation) outlined the legislation that contained provisions on the rights of detained persons, from the inadmissibility of violence and torture against

them to their right to be treated decently. The national independent mechanism for preventing human rights violations in places of detention was instrumental in guaranteeing those rights, and he emphasized the effectiveness of the current continuous monitoring system. An independent office under the Procurator-General's Office dealt with violations by law enforcement institutions and violations in temporary isolation facilities.

13. The human rights ombudsmen of the Russian Federation and its constituent units were charged with ensuring respect for the rights of detained persons and were entitled to visit places of detention without special permission. In 2008, a federal law had been enacted providing for public monitoring of respect for the human rights of detainees by monitoring commissions authorized to visit places of detention and talk to inmates. An important role was also played by human rights organizations and other public associations, the Bar and the media.

14. Russian legislation provided for the compulsory transfer of foreign citizens and stateless persons out of the Russian Federation by administrative removal or deportation, in accordance with federal law, or extradition under criminal and criminal procedure legislation. Those awaiting transfer were guaranteed appropriate legal protection. On the basis of judicial decrees, some 27,000 people had been expelled and 45 foreign citizens deported in 2007, 20,000 expelled and 71 deported in 2008, and 22,000 expelled and 66 deported in the first nine months of 2009. Measures were being taken to address the current severe shortage of centres to accommodate foreign citizens awaiting removal or deportation, which had a negative effect on the country's image and was detrimental to guaranteeing the human rights of those concerned.

15. Every year the Russian Federation received some 4,000 requests for extradition, only about one quarter of which were granted. In 2008 just over 1,000 persons had been extradited. The authorities' response to such requests was based on the country's obligations under international treaties, including the European Convention on Extradition and the protocols thereto. The Russian Federation had ratified the Convention on 25 October 1999 and it had entered into force on 9 March 2000. In considering requests for extradition, the Procurator-General's Office conducted an extrajudicial investigation and demanded guarantees from the requesting State that the person to be extradited would not be subjected to torture or other cruel, inhuman or degrading treatment or punishment. If such guarantees were not provided, the person was not extradited. Foreign citizens and stateless persons awaiting extradition in custody enjoyed the same rights as detained Russian citizens. In particular, their conditions of detention must be consistent with respect for human dignity.

16. **Ms. Kurovskaya** (Russian Federation) said that her Government had adopted a wide range of legislative measures to prevent violence against women. Article 19 of the Constitution guaranteed equal rights to women and men. Appropriate mechanisms had been introduced to preclude gender discrimination in labour and family legislation, the Criminal Code and other enactments. A Presidential Decree setting out the Government's most important policy goals included provisions for enhancing the social protection of women. Parliament was currently considering a bill to extend women's entitlement to leave from work for childbirth.

17. Legislation concerning criminal responsibility for violence against women, including rape, murder, torture, slander and trafficking, had been reinforced. Complaints of domestic violence against women filed in 2008 and 2009 accounted for a very small proportion of the total number of crimes reported, probably owing to victims' reluctance to file a complaint. The law enforcement authorities had therefore adopted measures aimed at identifying cases of domestic violence and had so far identified some 250,000 cases. Some offenders received treatment for drug addiction and alcoholism. High priority was given to the system of social rehabilitation for victims. Hotlines were in operation and there were 21

crisis centres for women and 23 hostels for women with minor children. They offered psychological, legal, medical, pedagogical and social services to women and girl victims of violence. The crisis centres catered for some 50,000 women and children. They employed lawyers to provide legal assistance and, if necessary, to represent victims in court.

18. The law enforcement agencies were involved in drafting legislation to enhance the status of victims in general and women victims of domestic violence in particular. The State planned to spend 1,604 million roubles over the next few years on such action. NGOs had assisted the authorities in educational work to generate awareness of the problem of violence against women among law enforcement agencies and health-care and social-welfare staff. Relevant textbooks had been published and the Ministry of Internal Affairs was working with women's organizations on recommendations for action against domestic violence.

19. With regard to the allegation that members of national minorities, including persons from the Caucasus and Central Asia and Africans, were subjected to undue surveillance, she assured the Committee that all persons, both citizens and non-citizens, were subjected to the same identity checks by the law enforcement agencies, which were simply performing their duty to prevent crime and ensure compliance with existing regulations. Anyone who considered that such acts violated his or her rights and freedoms could file a complaint with the courts. Law enforcement officials who were guilty of unlawful detention or abusive restrictions of human rights were criminally liable for their acts. An international seminar had recently been held on the question of cooperation between the police and members of national minorities. Her Government had adopted a comprehensive approach to the problem, involving all government agencies, social organizations and NGOs, and bearing in mind the recommendations of the Human Rights Committee and other international bodies.

20. **The Chairperson** invited comments by members of the Committee on the State party's responses to questions 1 to 17 of the list of issues (CCPR/C/RUS/Q/6).

21. **Ms. Keller**, referring to question 1, noted that the State party had failed to report on the measures taken to comply with the Committee's Views on the following cases: *Telitsina v. Russian Federation*; *Smirnova v. Russian Federation*; *Dugin v. Russian Federation*; and *Zheikov v. Russian Federation*. The Committee would welcome any information that the delegation could provide on those cases and would also appreciate a description of how the three orders issued by various ministries in response to the Views on *Lantsova v. Russian Federation* had improved prison conditions in terms of medical care, overcrowding, food quality, and the ability of prisoners to complain and obtain redress for offences committed in the penitentiary system without fear of recrimination. How were persons who were suspected, accused or convicted of offences informed of their right to complain to a court about their detention?

22. With regard to the Committee's Views in *Telitsina v. Russian Federation*, *Smirnova v. Russian Federation*, *Dugin v. Russian Federation*, *Zheikov v. Russian Federation*, *Platonov v. Russian Federation* and *Babkin v. Russian Federation*, she asked what the State party had done to implement the remedies for the authors of the communications, especially in terms of granting compensation for violations of the Covenant, conducting investigations into the treatment or death of certain persons, retrying Mr. Babkin and releasing Mr. Dugin.

23. Turning to question 4, she said the State party's reply seemed to indicate that the civil rights of suspected terrorists could be temporarily restricted and that those restrictions were consistent with article 4 of the Covenant because the State party was legally entitled to engage in certain counter-terrorist activities. She asked which rights could be restricted and under what conditions, and what kinds of counter-terrorist activities could be conducted under the existing legislation. She also asked what changes had been introduced under the

Federal Law “on amending certain laws of the Russian Federation concerning counteraction to terrorism” adopted on 30 December 2008 to facilitate the work of investigative bodies and what steps had been taken to ensure that the Covenant rights of suspected terrorists remained protected. Did the State party intend to establish an independent mechanism to review and report on the implementation of laws concerning terrorism?

24. According to the reply to question 5, liability for extremist activities could fall under the criminal, civil or administrative code. Administrative liability was incurred for abuses of the freedom of the mass media and for the production and dissemination of extremist materials. She asked whether they were the only extremist activities entailing administrative liability and whether the penalties imposed could include imprisonment. Were findings of administrative liability for extremist acts based on a judicial finding and subject to judicial review?

25. With regard to question 6, she asked whether an evidentiary threshold had to be met when a prosecutor asked a court to classify an organization as terrorist or extremist or to dissolve it for that reason, or whether the prosecutor’s request was automatically granted. Could the list of terrorist organizations and individuals be modified to include an organization or individual who was suspected by the prosecutor, his or her subordinates or an investigator to be a terrorist in the absence of a court ruling? She further enquired about the conditions in which an investigator could institute criminal proceedings on terrorist charges. Could an alleged terrorist organization be legally deprived of rights and privileges during the investigative stage before criminal charges had been laid?

26. Concern had been expressed to the Committee regarding the legal definition of extremist literature and statements under the laws of the State party. There was apparently no requirement to demonstrate any intent to incite terrorism or to prove that violence was likely to occur as a result of the literature or statement in question. She submitted that such a broad definition could lead to the imposition of a ban on literature or statements that were not in fact extremist.

27. The delegation claimed to have no information regarding the prosecution of public or religious organizations on extremist charges as a punishment for criticism of the Russian Federation. Yet some NGOs had reported that the authorities in the North Caucasus had fostered a climate of growing suspicion against human rights defenders and civil society organizations by repeatedly accusing them of supporting extremism and working for foreign secret service agencies. She asked what action the State party was taking to ensure that, on the one hand, the authorities in question behaved appropriately towards members of civil society and that, on the other, the detention of suspected terrorists was officially recorded and subject to judicial control.

28. She understood that the Ministry of Justice maintained a list of extremist materials that were banned from circulation. According to Amnesty International, a judicial decision by any court in the Russian Federation was sufficient for a text or website to be placed on the list, and the assessment of a text’s extremist character was often based on expert views. The Committee understood that the Ministry of Justice was currently establishing a list of experts, including forensic and technical experts, who could be called upon by a court to offer an opinion on the extremist nature of material. She would appreciate additional information on the subject.

29. Turning to question 17, she noted from paragraph 308 of the State party’s reply that foreigners and stateless persons, with some exceptions, enjoyed the same rights and freedoms as Russian citizens. The Committee would be interested in hearing details of any exceptions to that rule which would affect the rights of a foreigner or stateless person in detention.

30. The State party had provided useful statistics on complaints to criminal courts in 2007 and 2008 by persons deprived of their liberty and on complaints that had been “positively resolved”. She asked the delegation to clarify the meaning of “positively resolved”. Had the persons complained of been convicted and, if so, what penalties had been imposed by the courts for criminal conduct by State officials?

31. The Committee understood that the State party had recently set up a special unit to ensure that measures were adopted to ensure the enforcement of judgements of the European Court of Human Rights. She asked what action the unit had taken to ensure that there was due judicial control over the detention of persons pending extradition, an issue that had been raised before the European Court on many occasions. What was the State party doing to ensure that law enforcement officials were informed of the rights of asylum-seekers and refugees and that the latter were not improperly threatened with expulsion?

32. **Mr. Thelin** said that there was a general uneasiness regarding the state of freedom of expression for the media in the Russian Federation. He referred in particular to high-profile cases such as that of Mikhail Khodorovsky and the journalist Anna Politkovskaya. The State party had the sad distinction of ranking ninth in the “impunity index” compiled by the Committee to Protect Journalists.

33. With regard to question 2 of the list of issues, he welcomed the information provided by the delegation concerning measures to reform the judiciary. Noting that there were some 31,000 judges in the Russian Federation, he said that it must be difficult to avoid differences of opinion within such a large judiciary. As judges in many countries also tended to be opposed to reform, he asked whether measures had been taken to combat any conservative attitudes that might have been inherited from the former regime. Although it was probably too early to assess the effect of measures to counteract corruption, he would welcome details of any cases in which they had been implemented. He was also interested in hearing about cases of disciplinary action against judges. It was unclear to him where the power to impose disciplinary measures lay and in that context he stressed the importance of safeguarding the judiciary from intrusions by the legislature or executive.

34. Noting the existence of a Higher Qualification Board of Judges, he asked who appointed its members and how its recommendations were implemented.

35. He had been informed that in some regions local governors had called on court presidents to explain why lenient or harsh sentences had been imposed. If that allegation was true, it amounted to unacceptable behaviour on the part of the Executive. He had also heard that access to public finance in the regions sometimes had an impact on the independence of the judiciary, for instance where funds were needed to build or renovate a court.

36. In criminal cases judges must always be independent of prosecutors. Under the former regime, the nexus between the prosecutor and the judge had apparently been so close that in some cases court proceedings had been virtually unnecessary because the prosecutor’s decision had invariably been upheld. He enquired about the acquittal rate in criminal cases, since it was a reliable measurement of judicial independence. A high rate tended to indicate that judges were independent of prosecutors.

37. He had taken note of the establishment of an investigation committee, which would ensure that the prosecution remained separate from the investigatory body. He asked whether prosecutors came under the authority of the Ministry of Justice and whether the police were answerable to that Ministry or the Ministry of Internal Affairs.

38. Noting that the number of convictions for violations of article 7 of the Covenant concerning torture had doubled in recent years, he asked whether that sharp increase was due to greater efficiency on the part of investigators and prosecutors, or whether there had

been an increase in the number of cases in which suspects and accused persons had been subjected to torture or other forms of undue pressure. He also asked whether victims played an active role in the investigation of claims of undue pressure. Was there any special mechanism to deal with such allegations since it would be inappropriate to have the police force investigating itself?

39. Turning to question 3 of the list of issues, he enquired about the relationship between the new council for human rights and the Ombudsman. It was also unclear whether the Ombudsman could institute legal proceedings on behalf of complainants. The fact that there had been a slight decline in the number of complaints submitted might be encouraging if it was a sign that fewer people were seeking redress. The Committee would appreciate a breakdown of the figures. For instance, in how many cases had action been taken by the Ombudsman and to what extent had his recommendations been taken into account by the agencies concerned? Was it true that the Ombudsman had recently been denied permission to address the State Duma?

40. On question 16, he welcomed the data provided on the number of cases where extradition had been denied, but asked in what proportion of those cases it had been denied because of the risk of refoulement. He was aware of a number of cases that had come before the European Court of Human Rights in which extradition of persons from the Russian Federation to Uzbekistan, Tajikistan and Kazakhstan had taken place despite a risk of refoulement. He asked what action the State party was taking to prevent the same from occurring in the future.

41. **Ms. Motoc** said she did not believe that in its written replies the State party had addressed all the points raised under question 7, such as the request for statistical data on the number and capacity of crisis shelters for women who had suffered domestic violence. Her understanding, based on reports from NGOs, was that there were no such shelters at the present time. However, she did welcome the State party's efforts to work more closely with NGOs on the issue of domestic violence against women and appreciated the statistics provided on such violence. She asked what measures the State party would take to provide crisis shelters and other support to women who had suffered domestic violence. The lack of provisions referring to domestic violence against women in the State party's legislation and Constitution was a matter of concern and aggravated the problem of providing more resources and redress for victims. She welcomed the State party's campaigns to raise awareness of the issue of domestic violence against women and urged it to continue and expand them.

42. She expressed appreciation for the wide range of statistics that the State party had provided with reference to question 8, but requested information specifically on redress for victims. She asked whether the State party's educational efforts to promote a culture of tolerance within law enforcement bodies and society in general had so far achieved any results.

43. She did not feel that the State party's replies to the points raised under question 9 fully addressed her concerns. She had received reports that minorities in the Russian Federation had been subjected to discrimination and harassment by State bodies and also the population as a whole. Though she welcomed the efforts to encourage an understanding of such issues among law enforcement personnel, she had not seen evidence of efforts being made by the State party to change the attitudes of the general public.

44. **Sir Nigel Rodley** said that he was not aware of any country in which public opinion had driven the movement towards the abolition of the death penalty; he therefore stressed the importance of political leadership, of the kind that had been shown by the State party, in establishing the present moratorium on the death penalty. He asked whether the expansion of trials by jury to the whole of the Russian Federation could affect the status of that

moratorium. He also asked how long it might be expected to take for the efforts in education and political leadership to bring public opinion to the point where formal abolition of the death penalty could become possible, thus, enabling the State party to ratify the Second Optional Protocol?

45. In connection with question 12, he asked whether the State party's legal definition of torture specified that it was a crime involving public officials, as was the case in the international legal definition of torture. Internationally, torture was understood as a crime committed by those normally responsible for law enforcement. To track the existence of the crime, it was important that countries shared that common definition.

46. With regard to question 13, he welcomed the marked improvement in the treatment of prisoners but said that ill-treatment of detainees in police custody continued to be an area of concern. He was encouraged by the passing of the Federal Law of 2008 on public monitoring of human rights in places of detention, which he recognized was a new initiative that would take time to become effective. He was aware of problems relating to shortages of training and resources for monitors. An important objective was to achieve a situation where officials in charge of detention facilities could not know when they might be monitored. He recognized other related achievements such as the guarantee of access of lawyers to detainees. However, he was concerned at reports that a considerable proportion of ill-treatment took place after an individual had been brought to a police station but before he or she had been formally charged.

47. He took note of the statistics provided in connection with question 14. He noted in particular that few or no criminal cases had been brought from 2006 to 2008 under the Criminal Code articles on torture and extortion of confessions, but a larger number had been brought under abuse of power, an offence that had been recognized for longer. In the statistics provided in paragraph 292 of the written replies, he noted that 405 of the 4,300 convictions for abuse of power in 2006 had concerned federal or local government officials. He asked for clarification as to the capacities in which those convicted in the remaining cases had worked, and for further clarification of the number of convictions under the various relevant sections of the Criminal Code.

48. He expressed disappointment that, as in many other parts of the world where similar conflicts had taken place, the Russian Federation's counter-insurgency operations in the North Caucasus had led to huge numbers of cases of disappearance, murder and torture, many of which had come before the European Court of Human Rights. The Court had found in a considerable number of cases that the State had been responsible or had not conducted adequate investigations. The reports on many of those cases had been chilling, and he was under the impression that the State party had accepted the fact that such incidents had been so widespread that the system had not been able or had not sought to address them properly.

49. Referring to paragraphs 255 and 256 of the written replies containing information on the number of cases of abduction transmitted to courts, he asked how many of the cases listed related to crimes by the security forces and how many of those had led to convictions and sentences. He had received information from a local NGO which suggested that only three cases of serious human rights violations by the security forces in the region had resulted in convictions. He invited the State party to provide information on any further such convictions. He also noted that paragraph 258 referred to 49 persons sentenced by military courts to various terms of imprisonment, but there were few details of the crimes they had committed.

50. He was aware of the discovery of between 54 and 60 mass graves in the North Caucasus region, and expressed serious concern at reports that the bodies in those graves were not being exhumed and examined owing to a lack of forensic resources. He believed

that such investigations should be a matter of the highest priority for the State party, and urged it to devote the necessary resources to clarifying what had happened to the missing persons and bringing those responsible for their deaths to justice.

51. He regretted that the information in the written replies on investigations into alleged unlawful killings during certain military operations was limited. He requested further details on who had undertaken those investigations, how detailed they had been, and whether the new investigation committee had reopened them.

52. With regard to the Russian Federation's statement that it did not take responsibility for and could not investigate crimes committed by South Ossetian forces during the August 2008 conflict with Georgia, he suggested that the State party reconsider its position on that point. He drew an analogy with past events in Lebanon when the Government of Lebanon had not had control over parts of its southern territory owing to the activities of a neighbouring State; at that time the Committee had not looked to Lebanon for redress, but to the neighbouring State which had enabled third parties in southern Lebanon to carry out their criminal acts.

53. He also invited the State party to submit information relating to crimes committed by the Georgian authorities and Georgian citizens during the August 2008 conflict. The Committee could use the information as reference material when Georgia submitted its next report.

54. He asked what issues the special investigation committee referred to in paragraph 296 of the written replies was mandated to reinvestigate. In the light of reports he had received suggesting that that committee had been inhibited in seriously investigating colleagues, he requested information regarding its independence from ordinary prosecutors.

55. **Mr. Lallah** welcomed the State party's report and written replies to the list of issues, particularly as they provided detailed information on the situation of human rights rather than merely listing the domestic legislation that enshrined provisions of the Covenant.

56. Given that two of the main problems the State party appeared to face were terrorism and extremism, he would appreciate additional details of the legal framework used to tackle those issues. In view of the apparent contradiction between the statements in paragraph 176 of the periodic report and paragraphs 110 and 124 of the written replies, he requested clarification whether the Federal Law on Combating Extremist Activities also addressed terrorism. It would be useful to learn whether that Law applied to natural as well as juridical persons.

57. He asked what was meant by the terms "prosecutor response acts" and "warnings and admonitions" in paragraph 208 of the written replies. He also failed to understand how the data quoted in that paragraph were consistent with statistics received from NGOs, which had reported that between September 2004 and September 2009 there had only been 30 convictions for violent crimes with a recognized hate motive, and 25 convictions for hate speech.

58. The Committee would appreciate additional information on the apparent widening of the notion of extremist activity to include social groups as victims. Reports indicated that, in the absence of a definition of the term "social group", liberal interpretations by courts had resulted in some disconcerting convictions. In 2008, a musician had allegedly received a one-year suspended sentence for posting a commentary strongly criticizing the police on the Internet; the court had interpreted his words as inciting hatred against the police, which it had considered to be a social group. In another case the government of Tatarstan had been considered a social group. While the explanation could be due to a

translation problem, he failed to understand how non-specialists could be expected to know where the boundaries of the law lay.

59. **Mr. O'Flaherty** asked whether the existing constitutional protections against discrimination included issues of sexual orientation. The Committee had received reports of widespread de facto discrimination against homosexuals in many environments, including the workplace. One independent survey had indicated that some 54 per cent of homosexual workers did not disclose their sexual orientation for fear of retaliation or prejudice in the workplace, and that 90 per cent of respondents had been subjected to some form of discrimination in the workplace during the period under review. Public service workers had also reported discrimination during the process of applying for a job and once they had got a job. It would be useful to know whether the Government was aware of such patterns and practices, and what was being done to address them.

60. The Committee had also received information on unjustified police attacks on groups of homosexuals. In recent years there had been ample media coverage of disturbing scenes, such as the apparent use of excessive force by the police during a wreath-laying ceremony in Moscow, when a German parliamentarian and a well-known British gay activist had been injured. Police raids on gay social venues were allegedly also commonplace. While the raids had apparently been part of legitimate criminal investigations, the people temporarily held in those venues had reportedly been subjected to humiliating conditions by the police.

61. The Committee would welcome the delegation's comments on reports that, over a period of three years, the authorities had turned down more than 160 applications to hold gay pride parades, and that it was extremely difficult for lesbian, gay, bisexual and transgender organizations to obtain official registration. He also requested information on reported hate speech against homosexuals by public officials, such as the mayor of Moscow, the head of the Moscow police and the governor of the Tambov region.

62. In summary, he asked whether current legislation, particularly on anti-discrimination, provided proper protection for people of diverse sexual orientations. He also wished to know to what extent there was adequate accountability for violations perpetrated against people on the basis of their sexual orientation. He asked that question with regard to criminal accountability for physical attacks and, at the least, administrative responsibility for public officials who used hate speech. It would be useful to learn what efforts the State party was making and what steps it planned to take in future to combat prejudice in society in general and among public officials in particular.

63. **Ms. Wedgwood** said it was striking that so many people who spoke out on human rights, particularly journalists and human rights defenders, had been killed. They included Anastasia Baburova, Natalya Estemirova, Paul Klebnikov, Stanislav Markelov and Anna Politkovskaya. The Government should be in a position to protect the very people who provided it with information on human rights in its own society. She echoed the concerns raised by other Committee members on the independence of the judiciary and the efficacy of criminal investigations.

64. Turning to the conflict over South Ossetia, she questioned the statement in paragraph 266 of the written replies to the effect that the State party did not take responsibility for possible crimes by armed groups from South Ossetia and could not investigate such cases, leaving that to the local authorities. Without entering into the issue of the independence of South Ossetia, she said that where militias followed in the wake of an organized military, the military that provided them with shelter might well bear some responsibility for the actions those militias took. At the very least, the State party should take cognizance of that fact in order to prevent similar events in the future. She asked what protection was provided for Georgians returning to their homes and whether they were

entitled to maintain their Georgian citizenship on their return. While South Ossetia had declared independence since the events had taken place, many South Ossetians had held Russian passports at the time of the conflict.

65. She requested additional information on any investigations that had been conducted into the shooting of Paul Joyal in March 2007.

66. **Mr. Salvioli** requested additional information on the situation of people with mental disabilities, who were apparently deprived of any legal status. He asked whether the total deprivation of legal status for all people with a mental disability was not excessive in that it removed those people's right to take decisions concerning important aspects of their lives. In the case of *Shtukaturov v. Russian Federation* in March 2008, the European Court of Human Rights had ruled that the State party's system governing mental disability interfered disproportionately in the privacy of the persons concerned and could lead to arbitrary deprivation of liberty and other problems. He asked whether the State party had examined its legislation on mental disability in the light of the provisions of the Covenant. He also wished to know whether the current legal system gave persons deprived of their legal capacity the right to effective legal remedy when their rights were violated by their guardian or any other interested party.

67. **Mr. Pérez Sánchez-Cerro** urged the State party to implement the recommendations the Committee had issued in its concluding observations on the fifth periodic report. In addition to the information supplied in the written reply to question 11 of the list of issues, he requested information on the Ministry of Internal Affairs personnel or other individuals who had carried out the arbitrary arrests or been responsible for the mass graves. It was unlikely that criminal groups had been the sole perpetrators of those acts, since reliable information had come to light in almost 200 cases concerning dates and times of arrests and linking them to registration numbers of military vehicles and names of military personnel.

68. The appointment of judges by the President in no way guaranteed the independence of the judiciary; judges should be appointed by an autonomous body. He asked why some judges, who were supposedly appointed for life, had been removed from their posts. It would be useful to learn whether the State party planned to reform the judicial system in order to bring it into line with article 14 of the Covenant.

69. **Ms. Keller** requested additional details on the cases in November 2008 in which the bodies of eight women had been discovered in different parts of the Chechen Republic, each of whom had been shot at point-blank range in the head and chest. The Chechen Ombudsman had said that he could not exclude the possibility that the women might have been killed by their relatives as punishment for immoral behaviour. According to media reports, the Chechen President had said that the women had been rightly shot by male relatives because they had had "loose morals". Federal prosecutors had concluded that the relatives of the deceased were not suspects in the killings. She asked what the outcome of the investigations had been and whether any arrests had been made.

70. Lastly, she noted that so far in 2009 persons from Central Asia and the Caucasus had been disproportionately affected by hate killings and violent attacks against members of ethnic minorities, according to NGO data. She asked the delegation how it explained those findings.

The meeting rose at 5.50 p.m.