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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak

Addendum

FOLLOW-UP TO THE RECOMMENDATIONS MADE BY THE SPECIAL RAPPORTEUR

VISITS TO CHINA, GEORGIA, JORDAN, NEPAL, NIGERIA, AND TOGO*

* The present document is being circulated as received, in the languages of submission only.

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Introduction

1. This document contains information supplied by Governments, as well as other stakeholders, including National Human Rights Institutions and non-governmental organizations (NGOs), relating to the follow-up measures to the recommendations of the Special Rapporteur made following country visits. In paragraph 5 (c) of its resolution 8/8 on torture and other cruel, inhuman or degrading treatment or punishment of June 2008, the Human Rights Council urged States "To ensure appropriate follow-up to the recommendations and conclusions of the Special Rapporteur;" The report submitted to the fifty-ninth session of the Commission (E/CN.4/2003/68, para. 18), indicated that Governments of countries to which visits have been carried out would regularly be reminded of the observations and recommendations made by the Special Rapporteur after such visits. Information would be requested on the consideration given to the recommendations, the steps taken to implement them, and any constraints that may prevent their implementation. Information from NGOs and other interested parties regarding measures taken in follow up to his recommendations would be welcome as well.

2. Starting from the present report, the format of the follow-up report has been modified with the aim of rendering it more reader-friendly and of facilitating the identification of concrete steps taken in response to the specific recommendations and their results. For this reason, so-called follow-up tables have been created, which contain the recommendations of the Special Rapporteur, a brief description of the situation when the country visit was undertaken, an overview of steps taken in previous years and included in previous follow-up reports and, in the last column, measures taken in the current year on the basis of information gathered by the Special Rapporteur, from governmental and non-governmental sources.

3. By letters dated 4-9 December 2008, the Special Rapporteur submitted to the respective Governments for their consideration and comments the information on follow-up measures he had gathered. Letters were sent to the following countries: China, Georgia, Jordan, Mongolia, Nepal, Nigeria, Paraguay and Togo. Information was received from the Governments of Georgia and Togo. The Special Rapporteur is grateful for the information received.

4. The Government of Mongolia has not provided any follow-up information since the visit was carried out.

5. In the future, the Special Rapporteur intends to include in the new format all countries visited by mandate holders in the previous ten years.

6. Owing to restrictions, the Special Rapporteur has been obliged to reduce the details of responses; attention has been given to reflect information that specifically addresses the recommendations and which has not been previously reported.

China

Follow-up to the recommendations made by the Special Rapporteur in the report of his visit to China in November 2005 (E/CN.4/2006/6/Add.6, para. 82).

7. On 2 December 2008, the Special Rapporteur sent the table below to the Government of China requesting information and comments on the follow-up measures taken with regard to the

implementation of his recommendations. The Special Rapporteur regrets that the Government has not provided any input. He looks forward to receiving information on China's efforts to follow-up to his recommendations and he reaffirms that he stands ready to assist in efforts to prevent and combat torture and ill-treatment.

8. Echoing the observations of the United Nations Committee against Torture of 21 November 2008 (see CAT/C/CHN/CO/4), the Special Rapporteur notes several positive regulatory changes in recent years that relate to criminalizing acts aimed at coercing confessions. He regrets, however, that the definition of torture and the criminalization of torture in Chinese law still do not satisfy the requirements of articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). He also reiterates his concerns about Re-education-through-labour (RTL) camps and urges the Government to abolish the doctrine of RTL. The Special Rapporteur notes with interest the Government's on-going efforts to combat torture practices, including through the provision of nationwide training of the police and the introduction of audio and video recording devices in interrogation rooms. However, he also notes reports on shortcomings in the implementation of these new measures as well as on cases of intimidation of defence lawyers. He regrets that the state secrets system continues to be the primary obstacle to independent investigations of torture allegations, thereby also hindering the prosecution of perpetrators. Moreover, the secrecy surrounding actions taken with respect to torture makes it difficult to assess the results of new measures.

9. The Special Rapporteur welcomes the amended Law on Lawyers but notes with concern that efforts to reform the Criminal Procedure Law were apparently put on hold at the end of 2007. The Special Rapporteur urges the Government to resume its reform efforts as soon as possible, taking into account his recommendations concerning the guarantee of habeas corpus or equivalent means to challenge the lawfulness of detention and the full guarantee of the right to fair trial. The Special Rapporteur is particularly concerned about reports of the increasing use of house arrests for prolonged periods of time without a possibility to challenge the deprivation of liberty, as well as a reported increase in the number of arrests relating to political crimes in 2008.

10. The Special Rapporteur further notes that no independent mechanism mandated to monitor all places of detention has been created. In this context, he strongly encourages the Government to ratify the Optional Protocol to the Convention against Torture.

11. The Special Rapporteur also welcomes efforts made by non-governmental organizations (NGOs), national and international, to provide him with relevant reports and information, and encourages the Government to further strengthen its cooperation with them with regard to the implementation of his recommendations.

Recommendation (E/CN.4/2006/6/Add.6)	**Situation during visit in 2005** (See E/CN.4/2006/6/Add.6)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
(a) The **crime of torture should be defined** as a matter of priority in accordance with article 1 of the Convention against Torture, with **penalties commensurate with the gravity** of torture.	No explicit definition of torture in domestic legislation; the existing legislation relevant to the prohibition and criminalization of torture did not satisfy the requirements of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) articles 1 and 4; in particular, it lacked the following elements: • mental torture • the direct or indirect involvement of a public official or another person acting in an official capacit • infliction of the act for a specific purpose The penalization of acts of torture was stipulated in articles 247 and 248 of the Criminal Law (CL), however a number of other regulations permit exceptions (see infra Rec c)).	• 2006: the Ministry of Justice issued regulations aimed at prohibiting torture and ill-treatment by specific categories of public officials, such as "Six prohibitions for prison guards", "Six prohibitions for Re-education Through Labour" (RTL) etc. • In the Regulations on Case-Filing Standards in Cases of Rights Infringement through Dereliction of Duty, the Supreme People's Procuratorate (SPP) referred to specific forms of ill-treatment by judicial employees, which amount to the crime of coercing a confession, such as beatings, binding, prolonged use of cold, hunger, exposure or scorching to abuse detainees, severely injuring suspects or leading a suspect to commit serious self-injury or directly or indirectly ordering others to use torture for the purpose of extracting a confession. Cases against civil servants and employees of prisons, detention facilities, holding cells, labour camps and RTL facilities can be filed for the crime of abusing a detainee.	• ***Non-governmental sources****: Despite the introduction of new categories of offences relating to torture by the Supreme People's Procuratorate (SPP), the definition of torture and the prohibition and criminalization of torture in Chinese law still do not satisfy the requirements of CAT articles 1 and 4. In particular the definition does not include the infliction of severe mental pain or suffering, torture for other purposes such as discrimination and a catch-all phrase that would apply to all state or quasi-state actors.* • *The 2008 Government White Paper on China's Efforts and Achievements in Promoting the Rule of Law does not acknowledge or address these shortcomings.*
(b) All allegations of torture and ill-treatment should be	According to CPL article 18, the Supreme People's Procuratorate (SPP) is the mechanism		• ***Non-governmental sources****: With the exception of occasional reports about prosecutions of perpetrators in the*

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promptly investigated by an independent. authority with no connection to the authority investigating or prosecuting the case against the alleged victim.	responsible for investigating and prosecuting crimes committed by State functionaries. The Procurators are also mandated to monitor the police and prisons and exercise oversight functions. In its dual function of prosecution and monitoring the SPP is not an independent authority, as its primary interest is vested in convicting suspects as charged.		*Chinese media, in most of the torture cases documented by human rights organizations, no effective investigations are conducted. The primary obstacle to the independent investigation of torture allegations is the classification of information related to torture and abuse in detention facilities under the state secret system, such as information on methods used for investigation of important criminal cases and the targets of investigations; information on the places and circumstances of custody of important detainees; statistics on unusual deaths in prisons and other detention facilities; statistics on the number of detainees sent to RTL; data on incidents of police officers and other state officials using torture, causing injuries or disabilities to detainees; information on investigations against state officials, etc. For example, information about the treatment of persons detained or sentenced in connection with the March 2008 demonstrations in Tibet and information about investigations into the deaths resulting from these events are all classified.*

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			• *As a result, victims of torture, their lawyers, families or unrelated persons with knowledge of an act of torture who complain to the PSB Superintendent's Office or the Procuratorate usually receive the response that no evidence of torture was found without an effective and independent investigation having been carried out. When they are initiated, investigations fail to meet the requirements of promptness, effectiveness and impartiality. Political imperatives often influence the outcome of individual cases, including the decision whether to investigate and prosecute allegations of torture. The police, procuratorate and courts are not independent and remain under the supervision of the Chinese Communist Party, including through "Politics and Law Commissions". In cases of complaints to the PSB Superintendent's Office, the independence of the investigations can be questioned, as the PSB is responsible for the management of detention facilities.* • *The secrecy surrounding any actions taken with respect to torture cases makes it difficult to assess any new*

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			measures implemented and progress made by the government in this respect.
(c) **Any public official indicted for abuse of torture**, including prosecutors and judges implicated in colluding in torture or ignoring evidence, should be immediately **suspended from duty pending trial, and prosecuted**.	The Public Security Organs' Regulations on Pursuing Responsibility for Policemen's Errors in Implementing the Law and other regulations stipulated that "responsibility for 'errors', including forcing confessions or testimony, will not be pursued where the law is unclear or judicial interpretations inconsistent" and allowed for a number of exceptions.		***Non-governmental sources**: Perpetrators of torture are rarely suspended, indicted or held accountable.*
(d) The declaration should be made with respect to **article 22 of CAT** recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the provisions of the Convention. CAT	No declaration made to recognize individual complaint procedure.		
(e) Those legally arrested should not be	The Criminal Procedure Law (CPL) gave public security		***Non-governmental sources:** The Criminal Procedure Law has not been revised, and*

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held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant or pretrial detention, which **normally should not exceed a period of 48 hours**. After this period they should be **transferred to a pretrial facility under a different authority,** where no further unsupervised contact swith the interrogators or investigators is permitted.	organs broad discretion to detain suspects for long periods in custody without judicial review. Coercive summoning could be extended to up to 48 hours and the period of examination following formal arrest and prior to submitting the case to the Public Procuratorate could be extended to up to seven days, and up to 30 days for suspects of organized crime (article 69). Detention for the purpose of criminal investigation was generally possible for up to 14 days and could be prolonged for up to 37 days (article 61). Criminal detainees were held in detention centres (*Juliusuo*) under the jurisdiction of the Public Security Bureau (PSB).		*long delays allowed for summons, formal arrest by the police, approval of the arrest by the Procuratorate and special arrangements for some categories of suspects remain in force. Suspects may still be legally held in police custody for up to 37 days prior to approval by the procuratorate.*
(f) Recourse to **pretrial detention** in the Criminal Procedures Law should be **restricted**, particularly for non-violent, minor or less serious offences, and the application of **non-custodial measures such as bail**	Upon approval by the procuratorate, a suspect could be held for up to a total of seven months in investigative detention by the police, which could be extended by the procuratorate for another six and a half months in total or, in the case of the discovery of new crimes, indefinitely.	**2006:** The SPP placed extended detention in criminal cases within the sphere of oversight of the people's supervisors, which according to the Government, led to a reduction in the use of extended pretrial detention.	***Non-governmental sources****: pretrial detention continues to be applied excessively and for prolonged periods; in cases involving state secrets detention, it can be indefinite. During the pretrial phase, suspects remain in detention centres under the authority of the PSB.* The Special Rapporteur has not received additional current statistics on the number of pretrial detainees.

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and recognizance be increased.			
(g) **All detainees should be effectively guaranteed the ability to challenge the lawfulness of the detention before an independent court, e.g. through habeas corpus.**	China's domestic legislation did not provide for habeas corpus or any other legal recourse to challenge arrest and pretrial detention before an independent court.		***Non-governmental sources**: There is no provision under Chinese law requiring individuals to be brought promptly before an independent judicial authority for an assessment of the lawfulness of their arrest. House arrests (Ruanjin, literally soft arrests) are increasingly used at the discretion of the police and without legal procedure. House arrests often exceed the detention limits prescribed by the CPL, and persons deprived of their liberty have no access to a judge to challenge their detention;* *According to information received, so-called black detention sites outside of legal procedures are located at the outskirts of Beijing.*
(h) **Confessions made without the presence of a lawyer and that are not confirmed before a judge should not be admissible as evidence. Video and audio taping of all persons present during proceedings** in interrogation rooms should be expanded throughout the country.	• CPL article 43 prohibited the extortion of confessions by torture or the threat of torture, but not the *use* of confessions extracted through torture as evidence before courts • The Government acknowledged the pervasiveness of torture for the purpose of extracting confession and the SPP	• **2006:** Article 75 of the Public Order Administration Punishment Law of the National People's Congress Standing Committee (effective 1 March 2006) prohibits the use of evidence obtained by torture only when it is used as the basis of a criminal charge • The SPP announced the gradual nationwide implementation of audio-video recording of interrogations of criminal suspects, estimated to be in	• ***Non-governmental sources**: Article 96 of the CPL provides for access to a lawyer only after initial interrogation; while the use of evidence obtained through torture as the basis for a criminal charge is prohibited, such evidence may still be admissible during the proceedings* • *Confessions made without the presence of a lawyer and obtained under torture continue to be relied on in Court. When suspects or their*

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	announced in 2005 that eliminating confession through torture was among its priorities • Piloting systems of audio and video recording in interrogation rooms	use by procuratorates by 1 October 2007	*lawyers complain about torture during trial, the proceedings are often not altered in any way. This reportedly also applies to death penalty cases* • *A number of Chinese cities have introduced video-taping of interrogations in detention centres using closed-circuit cameras. However, there are no safeguards in place against the cameras being switched off to avoid capturing torture on tape. Detainees were in some cases brought outside the interrogation room and beaten up to avoid the recording of the abuse*
(i) **Judges and prosecutors** should routinely inquire of persons brought from police custody how they have been treated and in any case of doubt (and even in the absence of a formal complaint from the defendant), **order an independent medical examination**.	While Chinese law and prison detention regulations covered medical attention for detainees quite comprehensively, none of the provisions established the prisoners' rights to independent medical examinations;		
(j) **The reform of the CPL should conform**	• The CPL was not in conformity with		• ***Non-governmental sources**: The reform of the Criminal Procedure*

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to fair trial provisions, as guaranteed in article 14 of ICCPR, including the following: • the right to remain silent and the privilege against self-incrimination • the effective exclusion of evidence extracted through torture • the presumption of innocence • timely notice of reasons for detention or arrest • prompt external review of detention or arrest • timely access to counsel • adequate time and facilities to prepare a defence; appearance and cross-examination of witnesses; and • ensuring the	international fair trial standards (e.g. it did not provide for the right to remain silent and privilege against self-incrimination) • The Rules on the Handling of Criminal Cases by Public Security Authorities permitted exceptions to the 24 hours time period for family notification • Extensive periods of police custody permitted by law, no independent judicial review of arrest and detention • Article 96 of the CPL provides for access to a lawyer only after the first interrogation • Lack of independence of the judiciary • In practice, there were several shortcomings: presumption of innocence not respected; and • Access to a lawyer and the right to defence was severely limited		*Law was halted at the end of 2007 and there is no information as to when it will be resumed* • *The revised Lawyers Law (effective as of 1 June 2008) provides for the unconditional right of confidential access to a lawyer after initial interrogation, with no exception for cases involving state secrets. However, the new law contradicts the CPL, which continues to allow restrictions on the right of access to a lawyer for prolonged periods of time and gives police the right to be present during meetings with lawyers and clients. According to information received from non-governmental sources, the vague concept of state Secret has been extensively and arbitrarily used to deny access to legal representation and to case files and to hold trials in camera. Detainees are not entitled to "free legal assistance" until 10 days before the trial, and this only applies to some categories of prisoners. Following the publication of a letter by prominent lawyers that offered free legal services to Tibetans arrested during the March 2008 protests and that called upon the authorities to prevent coerced confessions, these lawyers*

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independence and impartiality of the judiciary			*were unable to process their annual license renewal in May 2008* • *Over 70% of criminal cases do not involve lawyers. This is despite the continuously growing number of qualified lawyers. A likely cause for the absence of lawyers from criminal cases is that lawyers refuse to take up cases for fear of repression or harassment (see infra recommendation l*
(k) The power to order or approve arrest and supervision of the police and detention facilities of the procurators should be transferred to independent courts.	There was no provision under Chinese law for individuals to be brought promptly before an independent judicial authority to assess the lawfulness of the detention; decisions over an extension of custody and pretrial detention rested with the Public Procuratorate.		***Non-governmental sources**: The Public Procuratorate continues to be in charge of decisions over extending police custody and pretrial detention.*
(l) Article 306 of the Criminal Law, according to which any lawyer who counsels a client to repudiate a forced confession, for example, could risk prosecution should be abolished.	Together with article 38 of the CPL, which made "interfering with the proceedings before judicial organs" an offence, CL article 306 could be invoked to harass, intimidate and sanction lawyers.		***Non-governmental sources**: CL articles 306 and CPL 38 remain in force allowing prosecutors to arrest lawyers on grounds of "perjury" or "false testimony", offences which are punishable by up to seven years' imprisonment. These articles have been used to intimidate, threaten and detain lawyers, who defend human rights. Defence lawyers have increasingly become the target of violence and torture.*

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(m) The Optional Protocol to the Convention against Torture should be ratified, and a truly independent monitoring mechanism be established - where the members of the visiting commissions would be appointed for a fixed period and not subject to dismissal - to visit all places where persons are deprived of their liberty throughout the country.			***Non-governmental sources**: While there is no shortage of internal oversight mechanisms within the law enforcement system, no independent mechanisms mandated to monitor all places of detention and effective complaints mechanisms have been created.*
(n) **Systematic training programmes** and awareness-raising campaigns on the principles of the Convention against Torture for the public at large, public security personnel, legal professionals and the judiciary.			
(o) Victims of torture and ill-treatment should receive substantial	The Law on State Compensation guaranteed the right to compensation for losses suffered through infringements of civil		***Non-governmental sources**: Most victims of torture are not awarded compensation, even when they try. If at all, victims typically receive a small amount after*

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compensation proportionate to the gravity of the physical and mental harm suffered, and adequate medical treatment and rehabilitation.	rights by any State organ or functionary, but it contained an exception clause for criminal cases where confessions were "intentionally fabricated" or other "evidence of guilt" was falsified.		*going through a painstaking process.*
(p) Death row prisoners should not be subjected to additional punishment such as being handcuffed and shackled.	At the Beijing Municipality Detention Centre, death row prisoners awaiting appeal were handcuffed and shackled with leg irons for 24 hours a day and in all circumstances.		• ***Non-governmental sources**: No information has been received on new practices abolishing the handcuffing and shackling of death row prisoners. Some convicts were reportedly denied a final farewell visit by their families prior to their execution.* • *The Government has increased the use of lethal injections to replace executions by shooting people in the neck.* • *New reports were received about harvesting of organs from death row prisoners and Falun Gong practitioners.*
(q) The restoration of Supreme Court review for all death sentences should be utilized as an opportunity to publish national statistics on the application of the death penalty.	The SPC restored its power of review in October 2005.	**2006:** The Government announced that it was planning to implement the full audio-visual recording of appellate court proceedings in death penalty cases. **2007:** The SPC resumed review of death penalty sentences as of Jan 2007; Official accounts estimate a drop in the number of executions by 30% in 2007 compared to 2006 as a result of a reduction in death	***Non-governmental sources**: Statistics on the application and execution of the death penalty are not published, which contributes to the perception of secrecy and makes it difficult to assess any true progress following the resumption of the SPC's review function;* No statistical data on death sentences and

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		sentences passed by lower courts and an average of approx. 15% of overturned death sentences by the SPC. *However, NGOs indicate that no official annual statistics were published and that the estimated number of executions in 2007 was between 5,000 and 6,000.*	on the impact of SPC oversight on the number of cases of capital punishment was provided.
(r) The scope of the death penalty should be reduced, e.g. by abolishing it for economic and non-violent crimes.	Chinese law provided for the death penalty in relation to a wide range of offences that did not reach the international standard of "most serious crimes"; among the more than 60 capital offences, there were many economic and other non-violent crimes.		***Non-governmental sources**: The number of crimes that carry the death penalty has not been reduced (at present 68). Several death sentences for non-capital crimes have been imposed during the reporting period. The SPC is currently working on a judicial interpretation of "the most serious and vile" crimes, for which the death penalty should be applied exclusively.*
(s) Political crimes that leave large discretion to law enforcement and prosecution authorities such as "endangering national security", "subverting State power", "undermining the unity of the country", "supplying of State secrets to individuals abroad" etc. should be abolished.	The replacement of the crimes of "counter-revolution" and "hooliganism" in 1997 with vaguely defined crimes in the Chinese CL left their application open to abuse particularly against the peaceful exercise of the fundamental freedoms of religion, speech and assembly.	***2006** and **2007: Non-government sources:** statistics released by the SPP state that the number of arrests for endangering state security rose from 296 in 2005 to 604 in 2006. Arrests reportedly increased further in 2007 to 742, the highest number since 1999.*	***Non-governmental sources**: The number of arrests for endangering state security has risen in 2008 in light of the mass arrests following the March 2008 demonstrations in Tibet and the unrest in Xinjiang. The majority of people arrested for endangering state security are arrested for "subversion", "incitement to subversion", "splittism" and "incitement to splittism". The vague definitions of these crimes in the Criminal Law provide the PSB and the State Security Ministry with broad discretion in deciding what constitutes a political crime and how it should be handled. The prohibition on*

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			opening trials involving state secrets to the public further increases the authorities' margin of manoeuvre when dealing with cases of political crimes. The total number of prisoners convicted for political crimes is estimated by non-governmental sources at around 4.000 people, and several thousands more are believed to be serving sentences for illegal political activities in RTL detention facilities. No statistical data on the number of new arrests for endangering state security and on the current number of all persons detained for the crimes of counterrevolution and endangering state security was provided.
(t) All persons who have been sentenced for the peaceful exercise of freedom of speech, assembly, association and religion, on the basis of vaguely defined political crimes, both before and after the 1997 reform of the CL, should be released.	Despite the revision of the CL in 1997, political dissidents sentenced before 1997 continued to serve long prison sentences for "hooliganism" and other non-violent offences. After the 1997 changes, political dissidents, journalists, writers, lawyers, human rights defenders, Falun gong practitioners and members of the Tibetan and Uighur ethnic, linguistic and religious minorities continued to be prosecuted for peacefully		***Non-governmental sources**: Although some individuals have been granted early releases, no systematic effort to free peaceful dissidents has been made. Despite the fact that the crimes of counterrevolution and hooliganism were dropped from the Criminal Law in 1997, as many as 100 persons are estimated to remain imprisoned for these crimes.* No statistical data on the number of persons released or granted sentence reduction for crimes that have been abolished was provided.

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	exercising their human rights on the basis of vaguely defined crimes and sentenced to long prison terms.		
(u) "Re-education through Labour" (RTL) and similar forms of forced re-education in prisons, pretrial detention centres and psychiatric hospitals should be abolished.	RTL and other forms of administrative detention had been used for many years against political groups, Falun Gong practitioners and human rights defenders accused of politically deviant and dissident behaviour, disturbance of the social order or similar petty offences. Some of these measures of re-education through coercion, humiliation and punishment aimed at altering the personality of detainees up to the point of breaking their will.		***Non-governmental sources**: RTL continues to be used in a wide range of cases against political dissidents, petitioners, religious, ethnic and linguistic minorities, human rights defenders and others, including cases involving prostitution and begging.* *Figures received on the number of existing RTL detention sites range from 320 to 352, with one source quoting the total number of detainees at 220,000. Several thousand persons are reportedly detained in the RTL system for illegal political activity, or to be punished for making trouble, without legal charges, trial or judicial review sometimes for a period of up to four years. RTL also continues to specifically target Falun Gong members. Torture and other ill-treatment in RTL facilities continue to be reported. In the run-up to the Olympic Games, peaceful petitioners and rights activists in Beijing were arrested under the scope of RTL.* The Special Rapporteur has not received information on when the Illegal Behaviour Correction 2007 draft law on the reform

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			of the RTL system, which reportedly is before the National People's Congress, will be promulgated.
(v) Any decision regarding deprivation of liberty must be made by a judicial and not administrative organ.	RTL and other forms of forced re-education in administrative detention were based solely on administrative regulations and decisions without judicial control over the deprivation of liberty.		***Non-governmental sources**: Punitive administrative detention and re-education continues to be used to supplement formal criminal sanctions, without judicial oversight and access to a judge. In addition, the increasing use of house arrests and alleged black detention sites take detainees outside both the judicial and administrative oversight mechanisms.*
(w) The Special Rapporteur recommends that the Government continue to cooperate with relevant international organizations, including the Office of the United Nations High Commissioner for Human Rights, for assistance in the follow-up to the above recommendations.			

Georgia

Follow-up to the recommendations made by the Special Rapporteur in the report of his visit to Georgia in February 2005 (E/CN.4/2006/6/Add.3, paras. 60-62).

12. On 2 December 2008, the Special Rapporteur sent the table below to the Government of Georgia requesting information and comments on the follow-up measures taken with regard to the implementation of his recommendations. The Government provided comprehensive information on steps taken on 28 February 2008, on 20 and 26 January 2009. The Special Rapporteur would like to thank the Government for the very detailed and thorough replies provided to him. He reaffirms that he continues to stand ready to assist in all efforts to prevent and combat torture and ill-treatment.

13. The Special Rapporteur welcomes the adoption of the Anti-torture action plan and trusts that, by assigning tasks to specific bodies and through improving cooperation, it will render the fight against torture more effective. He hopes that its implementation will constantly be reviewed and is looking forward to learning about the concrete results it will bring about. Similarly, he notes with satisfaction that efforts to establish a national preventive mechanism (NPM) in accordance with the Optional Protocol to the Convention against Torture are on-going. He encourages the Government to ensure that the NPM becomes functional as soon as possible and that civil society is fully included in the process of its creation and in its work.

14. The Special Rapporteur commends on-going institutional reforms, e.g. integration of the Prosecutor's Office in the Ministry of Justice, the creation of a new Ministry of the Penitentiary and Probation, and the establishment of the national forensic service as a stand-alone body. He looks forward to receiving information on how these institutional changes translate into concrete improvement on the ground.

15. The Special Rapporteur also welcomes recent measures taken to address overcrowding in places of detention. However, he regrets that reports still indicate that the overall number of persons deprived of their liberty continues to grow and that non-custodial punishment measures, such as fines and bail are not sufficiently applied. In this context, he hopes that the Criminal Justice Reform Inter-Agency Coordinating Council will contribute to strengthening the use of non-custodial measures and looks forward to hearing about progress in this regard.

Recommendations (E/CN.4/2006/6/Add.3)	**Situation during visit** (See: E/CN.4/2006/6/Add.3)	**Steps taken in previous years** (See: A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**

Anti-torture Action Plan and criminal justice reform		The Inter-agency Coordination Council for Implementation of Activities Directed against Torture, Inhuman, Cruel and Degrading Treatment (established by Presidential Decree N369 of 20 June 2007) elaborated an anti-torture action plan for 2008/09, providing for the introduction of a zero-tolerance policy vis-à-vis torture, measures against impunity, activities foreseen to strengthen the safeguards for detainees, improvement of conditions of detention, and awareness-raising.	• **Government 2008**: The Anti-Torture Action Plan was adopted on 12 June 2008 by Presidential Decree 301
			• On 13 December 2008, the President of Georgia signed Decree No. 591 creating the Criminal Justice Reform Inter-Agency Coordinating Council. Its main objectives are:
			  • To elaborate relevant recommendations regarding the Criminal Justice Reform in line with the principles of the rule of law and the protection of human rights
			  • To review and periodically revise the existing Criminal Justice Reform Strategy
			  • To coordinate intergovernmental activities in the elaboration of the Criminal Justice Reform Strategy; and
			  • To elaborate proposals and recommendations regarding issues related to penal reform, probation, juvenile justice and legal aid
			• The members of the Council are high level governmental representatives (deputy ministers and heads of relevant services); members of the Judiciary, and the Public Defender of Georgia. Membership is open to representatives of

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			international organizations and non-governmental organizations, as well as to criminal justice system experts • ***Non-governmental sources 2008:*** *The Inter-agency Coordination Council for Implementation of Activities Directed against Torture, Inhuman, Cruel and Degrading Treatment comprised high-level officials from different ministries as well as international and national organizations (the latter as observers); the official members of the Council tabled an action plan which envisages activities directed against torture and covers the years 2008 and 2009; NGOs positively noted the withdrawal of a section devoted to diplomatic assurances* (see also A/HRC/7/3/Add.1) *and the inclusion of juveniles/juvenile justice and of monitoring of the progress of the action plan; however, concern was expressed at the vagueness of the 'indicators' contained in the final plan*
The highest authorities, particularly those responsible for law enforcement activities, declare unambiguously that the **culture of impunity must end** and that **torture and**	No equivocal condemnation of torture	• Prosecution Service and police publish information regularly • A Manual containing clearer guidelines on the modalities of the use of force and subjecting the use of force to a stricter review has been elaborated	

Recommendations (E/CN.4/2006/6/Add.3)	**Situation during visit** (See: E/CN.4/2006/6/Add.3)	**Steps taken in previous years** (See: A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
ill-treatment by public officials will not be tolerated and will be subject to prosecution (a)			
Judges and prosecutors routinely ask persons brought from police custody how they have been treated, and even in the absence of a formal complaint from the defendant, order an **independent medical examination** (b)	Not in place	• A Manual containing clearer guidelines on the modalities of the use of force and subjecting the use of force to a stricter review has been elaborated • CPC para. 73(f) states that a medical examination is an absolute right that can neither be denied nor restricted. Article 73(f) refers to medical expertise (needed for the determination of important factual circumstances of a case), which is subject to a court decision • Article 922 of the Law on Imprisonment of 23 June 2005 requires a medical examination after every transfer • CPC article 263, provides that, if information recorded upon the routine medical examination shows that a prisoner has injuries, the prosecutor can initiate a preliminary investigation, even in the absence of allegations from the detainee • Internal Guidelines of the	**Government 2008**: The suggestions that judges should ask every person whether he/she has been ill-treated will be taken into account in the course of further criminal justice reform.

Recommendations (E/CN.4/2006/6/Add.3)	**Situation during visit** (See: E/CN.4/2006/6/Add.3)	**Steps taken in previous years** (See: A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
		Prosecutor General regarding Preliminary Investigation into allegations of torture, inhuman and degrading treatment adopted on 7 October 2005 require the automatic opening of a case if reports on torture are received and fix maximum delays for preliminary investigations	
All **allegations of torture and ill-treatment be promptly and thoroughly investigated** by an independent authority with no connection to that which is investigating or prosecuting the case against the alleged victim (c)	No mechanism to conduct such investigations independently	• A Human Rights Protection Units exist in the Office of the Prosecutor General and the Ministry of the Interior; however they are not independent; both agencies also have General Inspection Units in charge of ensuring internal discipline (see below) • According to CPC article 62, any crime committed by a policeman shall be investigated by the Investigative Unit of the Prosecution Service; therefore, investigating officials are not from the same service as those who are subject of the investigation • A Decree of the Penitentiary Department of 7 August 2006 requires every member of the Special Task Force to have identification insignia consisting of	• **Government 2008**: Ministerial Order of 19 February 2007 para. 1 requires heads of territorial and structural units to ensure that every person in their subordination, who carries out investigative activities in connection with a specific criminal case and has direct access to detainees, shall be identifiable; the Ministry of Internal Affairs of Georgia is seeking to improve the system of identification, e.g. through unifying the identification numbers • Figures concerning investigations and prosecutions for 2008: Investigation Initiated: 39 Among them 144[1] 35 144[2] 0 144[3] 4 Investigation terminated 23 On cases initiated in previous year 8 Criminal pursuit initiated 2 Sentenced (persons) 5

Recommendations (E/CN.4/2006/6/Add.3)	**Situation during visit** (See: E/CN.4/2006/6/Add.3)	**Steps taken in previous years** (See: A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
		four numbers on his/her uniform • Complaint mechanisms are provided by the Law on Imprisonment and by Minister of Justice Decree No. 620 of 26 June 2006	
Plea bargain agreements entered into by accused persons are without prejudice to criminal proceedings they may institute against allegations of torture and other ill-treatment (d)		• Amendments to the CC along with Internal Guidelines of the Prosecutor General regarding Preliminary Investigation into allegations of torture, inhuman and degrading treatment adopted on 7 October 2005 introduced a number of safeguards, notably supervision by a judge and presence of a defense lawyer • The guidelines also provide that no plea agreements should be used with respect to victims of torture and/or with respect to persons accused of torture, threat to torture and inhumane and degrading treatment	• **Government 2008**: No legal-administrative act regulating plea agreement proceedings exists within the Office of the Prosecutor General; however, the Prosecutor has issued Internal Guidelines of a recommendatory character as an authoritative guideline for prosecutors in accordance with recommendations by international experts • ***Non-governmental sources:*** *NGOs do not have access to the Internal Guidelines.*
Forensic medical services be under judicial or another independent authority, not under the same governmental authority as the police and the penitentiary system.	Forensic services were part of the police/penitentiary services	The National Bureau for Forensic Expertise (NBFE) is not structurally subordinated to the Ministry of Justice; its Charter provides for considerable independence while carrying out its duties. NBFE has an independent budget, bank account, stamp and other requisites of any legal entity.	• **Government 2008**: In line with the ongoing reforms, on 31 October 2008 the Parliament of Georgia adopted the Law on a Legal Entity of Public Law "Levan Samkharauli National Bureau of Judicial Expertise", which entered into force on 1 January 2009 and creates the National Bureau as an independent legal entity of

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Public forensic medical services should not have a monopoly on expert forensic evidence for judicial purposes (e)			public law, rather than an institutional part of the Ministry of Justice. The President of Georgia shall appoint the head of the National Bureau, who shall present the statute of the National Bureau to the Government for approval. • Forensic expertise has never been free of charge for any eligible institution or party (including public authorities). Prior to the adoption of the new law, the fees were determined by governmental decree. The new Law explicitly provides that the fees for the forensic expertise shall be defined by governmental decree, thus the law neither alters nor changes the procedures regarding the fees. In addition, as a legal entity of public law, the National Bureau is entitled to carry out remunerated activities as noted in its statute. • ***Non-governmental sources 2008****: Up until the present time the NBFE has been a legal entity under the Ministry of Justice which is also in charge of prisons. However, in connection with the planned changes of merging the Prosecutor General's Office with the Ministry of Justice, a draft law has been elaborated which envisages that the National Forensic service will be a legal entity separate from executive*

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			government bodies
Any public official indicted for abuse or torture, including prosecutors and judges implicated in colluding in or ignoring evidence, be immediately suspended from duty pending trial, and prosecuted (f)	None	• Article 183 CPC provides that a suspect can be suspended from duty by a judge if some pre-conditions are fulfilled.	• **Government 2008**: Para. 1(4) of the Anti-Torture Action Plan aims at the implementation of the rule that any public official charged with abuse or torture shall be suspended from duty • Statistical data on administrative and criminal liability of the police in 2008: Notice (114); Reprimand (171); Severe reprimand and warning (78); Demotion (5); Dismissal (303); Recommendation Notice (107); Suspension from duty (9); Warning (9); and Prohibition of the right of three discharges (1)
Victims receive substantial compensation and adequate medical treatment and rehabilitation (g)	No mechanism in place	• CPC article 30(1) provides that a person harmed by any crime can attach a civil action for compensation to a criminal case with CPC article 33(4) containing a safeguard ensuring the protection of the best interests of the victims • CPC article 33(4), which provides that the failure to identify the perpetrator is not a hindrance for a victim to bring an action before the civil courts on the basis of state liability, came into force on 1 January 2007 • CPC article219-229 deal with compensation for damages sustained as a result of illegal	• **Government 2008**: Acknowledges the lack of awareness among victims and lawyers of existing possibilities of redress; for this reason, campaigns aimed to raise awareness are foreseen by para. 5(3) of the Anti-Torture Action Plan • The latter also contains detailed provisions on adequate medical treatment and rehabilitation

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		actions by law-enforcement organs. Compensation is granted independently of whether the state officials were found guilty • To address the fact that there are no cases of victims of torture or ill-treatment to acquire compensation, the Action Plan on the Fight against Torture envisages measures aimed at raising public awareness on the right to compensation for the victims of torture	
Necessary measures be taken to establish and ensure the independence of the judiciary in the performance of their duties in conformity with international standards (e.g. the Basic Principles on the Independence of the Judiciary). Measures should also be taken to ensure respect for the principle of the equality of arms between the prosecution and the defence in criminal	Not respected in practice	• Judicial reform is being carried out including through reform of judges' training, selection and promotion system; salaries of judges were increased substantially in 2007 • Constitutional amendments were introduced in December 2007 to minimise the authority of the President in the judicial system; the High Council of Justice appoints and dismisses judges; the Chairman of the Supreme Court of Georgia chairs the meetings of the High Council • 2007 Law on the "Rules of Communication with Judges of General Courts of Georgia". • Revision of the Code of Judicial Ethics to ensure compliance with	• **Government 2008**: Reform in line with the Criminal Law Reform Strategy and the Government's Action Plan to be completed in early 2009. Its guiding principles are: • Strengthened independence and impartiality of the judiciary • Improve social guarantees for judges as well as non-judicial staff in the judiciary; improved training for both categories • Systemic reorganization of the judiciary ensuring effectiveness and efficiency of the whole judicial process • Development of infrastructure for the judiciary including construction of new buildings and the provision of necessary technical equipment

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proceedings (h)		the European Standards of Judges' Ethical Behaviour adopted by the Conference of Judges on 20 October 2007 • Para. 4 of CPC article 8 on supremacy and independence of the judiciary, states that the judiciary controls the legality and validity of activities and decisions of investigators and prosecutors	• Reform of established court/case management systems • Reforms in the Ministry of Justice of Georgia and the Prosecution Service • On 10 October 2008, amendments to the Constitution of Georgia authorized the merger of the Prosecution Service of Georgia with the Ministry of Justice. Following the corresponding changes to the Constitution, a new Law on the Prosecution Service of Georgia was adopted on 21 October 2008. As a result, the Prosecution Service now is part of the Ministry of Justice of Georgia. However, its legal status is different from other departments and units of the Ministry, in view of the scope of its independence. The Chief Prosecutor supervises the prosecutorial and administrative activities. The Chief Prosecutor is nominated by the Minister of Justice and appointed by the President • The Minister of Justice, unlike the then existing Prosecutor General, is a member of the Cabinet and accountable to Parliament. Political accountability and parliamentary supervision concern only criminal justice policy. The Prosecution Service as a whole maintains the necessary independence in its day-to-day work. The Law on the Prosecution

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			Service guarantees that no governmental body or official, including the Prime-Minister and the President, can repeal legal acts issued by the Minister of Justice and/or officials of the Prosecution Service of Georgia • The relevant changes in the Law on the Government of Georgia envisage the establishment of a Penitentiary and Probation Ministry from 1 February 2009, to avoid that the penitentiary and the probation services are under the same ministry • The Minister of the Penitentiary and Probation will be a Cabinet Minister accountable to Parliament • Illegal decisions by judges were decriminalized by law; amendments to the Law on "Disciplinary administration of justice and disciplinary responsibilities of judges of common courts of Georgia" of 19 July 2007 redefine "gross violation of law" as "violations of imperative norms of the Constitution of Georgia, international conventions and agreements of Georgia and the legislation of Georgia that caused (or could have caused) the substantial damage to the party of the hearing, legal rights and interests of third person or public interests will be regarded as the gross violation of law";

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			they also make explicit that wrongful interpretation of the law based on intimate convictions of the judge cannot form the basis for disciplinary proceedings and the judge cannot be prosecuted for such conduct • A "High School of Justice" has been operating since December 2007 to provide basic training on judiciary functions; periodic retraining is foreseen as well • A competitive selection process for judges is conducted periodically by the High Council of Justice
Non-violent offenders be removed from confinement in pretrial detention facilities, subject to non-custodial measures (i.e. guarantees to appear for trial, at any other stage of the judicial proceeding, and should occasion arise, for execution of the judgement) (i) and Recourse to pretrial detention in the Criminal Procedure Code be restricted,		• **Government 2007**: firm commitment to restrict the use of custodial measures for suspects and accused persons, trend in 2006 and 2007 was positive (see charts in A/HRC/7/3/Add.2) • The Prosecutor General issued Internal Guidelines dated 26 January 2007 promoting the application of non-custodial measures in particular bail • Article 195 of the Draft • Criminal Procedure Code lists non-custodial measures and refers to the establishment of the Probation Service • CPC article 159 holds that	**Government 2008**: 2005: 44,7 % non-custodial; 55.3% custodial 2006: 42% non-custodial; 58% custodial 2007 (first ten months): 55% non-custodial; 45% custodial ***Non-governmental sources 2008****: number of persons in detention continues to grow see appendix 2, table 3* • *The amendment of December 2005 to article 152 (types of pretrial preventive measures) of the Criminal Procedural Code (16.12.2005 N 2265) excluded house arrest, release on own recognizance, and police oversight and therefore reduced the range of non-custodial pretrial preventive measures* • *In the first 9 months of 2008, pretrial*

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particularly for non-violent, minor or less serious offences, and the application of non-custodial measures such as bail and recognizance be increased (j)		detention as a measure of restraint as a rule is not used towards seriously ill persons, minors, persons over a certain age (women 60 and men 65), women who are 12 or more weeks pregnant or have a baby (of up to one year), and also towards persons who have committed a crime out of negligence	*detention was 44,9 percent (see appendix 2, table 4)* • *In February 2007, a standing commission was set up at the Supreme Court of Georgia which elaborated guidelines with regard to certain key proceedings of the criminal procedural legislation and practice. The document is titled "Practical Recommendations for Magistrates on Key Issues of Criminal Procedure" and, among other issues, also includes detailed guidelines regarding the procedures for the application of pretrial measures of constraint* • *Post-trial: In the last two years the numbers of convicted prisoners have exploded (see appendix 2, table 1); the proportion of prison sentences has averaged 45 % of all sentences over the last 5 years, while conditional sentence has been used in an average of 44% of all sentences; the use of fines as main punishment measure has decreased from 24 % in 2004 to 4 % in 2007; the use of other alternative, non-custodial sentences, such as community service, correctional labour, the deprivation of the right to hold a position or do a professional activity, etc has been meager and has averaged 0.7 % of all*

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			applied sentences for the last five years • *In 2007 and 2008 Penal Reform International, with support from the European Union, together with the Probation Service, held a number of meetings to discuss a new probation law; these meetings showed that probation is widely misunderstood, and that chronic under-resourcing has had the effect of discrediting this institution in the eyes of the police, courts and prosecutors. It is for this reason that constructive alternatives to imprisonment are underused; limited pilots in two locations have started in cooperation with international organizations and the government, including risk and needs assessment/sentence planning tools and provision of qualified social work teams serving juvenile probationers*
Confinement in detention not exceed the official capacity (l); Existing institutions be refurbished to meet basic minimum standards (m); and New remand centres be built with sufficient accommodation for the anticipated population	Severe overcrowding; very poor conditions.	• Financial resources allocated have drastically increased and considerable refurbishment programmes are underway, funded from the State budget • Some prison facilities underwent substantial reconstruction (Rustavi Prison No. 2); no overcrowding in Tbilisi Prison No. 7; other works in several institutions, including women and juveniles cells; Rustavi	**Government 2008**: The official capacity of the prisons as of 26 January 2009 has been determined by Decree No. 24 of the Minister of Justice of Georgia (see appendix 2, table 1). • The following penitentiary institutions have been constructed and renovated in 2008: • In March, renovation works on buildings were completed in Geguti No. 8 institution. As a result, the

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to the extent that the use of non-custodial measures will not eliminate the overcrowding problem (n)		Prison No. 2 was abolished with the building fully reconstructed, refurbished and opened anew on 2 December 2006. In June 2005, on the territory of Prison No. 5 for Women Offenders, a new prison for juvenile offenders was constructed in accordance with international standards • Action Plan for the Reform of the Penitentiary System for 2007-2010 foresees further refurbishment	number of places increased from 917 to 2000 • Construction of a new, four-floor building (regime institution) for 1.000 inmates was completed in Geguti No. 8, in August, 2008 • In October, 2008 the construction of a new penitentiary building in Rustavi No. 2 for 1000 inmates was completed • A new modern prison hospital was built and equipped in November 2008. The hospital is designed for 400 patients and will replace the old prison hospital that fell short of international standards • The Human Rights Unit of the Ministry of Internal Affairs refurbished the following Temporary Detention Cells (TDCs) in 2008: TDCs No.1, located at the Ministry of Internal Affairs in Tbilisi; TDCs of Chokhatauri region; TDCs of Zugdidi region; TDCs of Kobuleti region; TDCs of Kaspi region; and TDCs of Mtskheta-Mtianeti • Refurbishment is ongoing at TDCs of Gardabani region and TDCs of Adigeni region, while refurbishment of Gori and Mtskheta TDCs are planned for 2009

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			• Number of Persons detained in TDCs: 23.196 (786 minors). • Claims towards policemen: 132 (no minors) • The total budget of the Prison Department had been increasing in recent years in order to meet the requirements. The total budget of the Prison Department in 2007 amounted to more than 82 million GEL (= 49 013748) and 96 million GEL (= US$ 54 991034) in 2008. The salaries of staff of the penitentiary department have increased accordingly • Monthly food expenditure for prisoners has increased in successive steps: • 2006: 23.5 GEL, about US$ 14 2007: 50 GEL, about US$ 30 2008: 80 GEL, about \US$ 48 from October 2008: 90 GEL, about US$ 54 • The outsourcing of food provision has already produced tangible results and allows providing special diets for those prisoners who need it • In October 2007, the Penitentiary Department of the Ministry of Justice concluded a contract with “Aldagi - BCI” insurance company, which has been providing medical services to the prisoners since November 2007.

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			Transition to the insurance system has entailed an increase in service standards and trusts in the quality of the treatment
			• The Medical Monitoring Unit of the General Inspection supervises the activities of the medical services of penitentiary establishments, as well as the conditions of detention. Accordingly, the following activities have been carried out by the Medical Monitoring Unit in 2008:
			  • Implementation of the programmes "Fight against Tuberculosis" and "Fight against HIV/AIDS and other Infectious Diseases" in the penitentiary system
			  • Participation in sessions of the "Tuberculosis, HIV/AIDS and Malaria" Coordinating Council.
			  • Participation of the implementation of the "Metadon Program" (for drug-addicts) at the Penitentiary Institution No. 8
			  • Participation in the work of Special Medical Commission, which reviewed the possibilities of early release of 18 prisoners infected with serious and incurable diseases
			• Various employment and educational programmes have been gradually introduced (computer learning courses,

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			shoes micro production facility, icon-painting learning courses, sports activities and etc). With the purpose of prisoners' education, the libraries of almost all penitentiary institutions have been refurbished and supplied with around 10.000 books of modern literature in the last 6 months of 2008. The Ministry of Justice and the Ministry of Education and Science, with the assistance of the reform group, have elaborated a concept paper on medium, professional and higher education for prisoners • "Administrative detention orders" were introduced by the Law on Imprisonment of 29 June 2007 (entered into force on 1 September 2007) as a disciplinary measure for prisoners (except pregnant women and convicted juveniles below 14); they can be imposed by the prison director or a duly authorized person for no more than 60 days; these periods are not counted in the overall period of conviction; a number of safeguards are foreseen (e.g. information in a language understandable to the prisoner about his rights including to appeal the order); any such order, should be presented to the court within 24 hours; a public oral court hearing has to be held within 48 hours after its submission in accordance with

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			the Administrative Procedure Code, which guarantees the equality of arms (including presence of a defence council)
			• Prisoner release/amnesty/pardons:
			  • In 2008, the courts, based on motions of the Prison Department and defence lawyers, released 1056 prisoners on parole, postponed the sentence of 42 prisoners, and released two prisoners due to illness
			  • In 2008, 2804 prisoners were granted pardon (pardon covers release or reduction of the sentence)
			  • Parliamentary Law No. 531 of 24 November 2008 lists the crimes with respect to which the suspects, accused, defendants or convicted persons is exempted from criminal liability or when the penalty is reduced to half. With respect to certain crimes it extends the amnesty to persons who were minors when the crimes were committed
			  • Number of amnesties granted:
			  • Exempted from criminal liability: 55
			  • Penalty reduced to half: 1,215
			  • Reduction of the Penalty: 1,380
			  • Penalty remains unchanged: 553
			  • Total: 3,202

Recommendations (E/CN.4/2006/6/Add.3)	**Situation during visit** (See: E/CN.4/2006/6/Add.3)	**Steps taken in previous years** (See: A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
			• ***NGOs 2008****: Several facilities were partly or entirely rebuilt (pretrial Prison n. 5 Tbilisi, including new prison hospital, a new block in Rustavi opened in 2007; No. 8 in Geguti completely refurbished; Women's colony) However, in spite of repeated requests by non-governmental organizations, the official capacity of the new facilities has not been defined by the Ministry of Justice, and it is therefore unclear to what extent they are overcrowded* • *A contract with a private insurance firm was signed before a joint ministerial health needs assessment process supported by ICRC had been brought to its conclusion, raising concern that the cover provided might not be adequate to the needs* • *For overcrowding figures see table 3* • *Concerning announcements of an amnesty of around 3,000 prisoners in November 2008, NGOs expressed concern at the lack of preparation for release, which increases the risk of reoffending, and at the danger that amnesties discredit the practice of conditional and early release*

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and Pretrial and convicted prisoners be strictly separated (k)	Several cases where they were not separated	• Article 19 of the Law on Imprisonment establishes different types of regimes in the same penitentiary facility, but requires strict separation of the various categories	
In accordance with the Optional Protocol to the Convention against Torture, establish a truly independent monitoring mechanism - where the members of the visiting commissions would be appointed for a fixed period and not subject to dismissal - to visit all places where persons are deprived of their liberty throughout the country. In the opinion of the Special Rapporteur, such a mechanism could be situated in an independent national human rights institution established in accordance with the Paris Principles, the		• 2005: accession to the Optional Protocol to the Convention against Torture (OPCAT) • In summer 2006 monitoring councils of psychiatric hospitals and orphanages have been set up under the Public Defender's office	• **Government 2008**: In December 2008, the Ministry of Justice presented a draft proposal regarding the designation of the Public Defender of Georgia as national preventive mechanism (NPM) in accordance with OPCAT, at the Session of the Inter-Agency Coordinating Council against Torture. The members of the Council and the Public Defender were asked to present their views on the draft. Based on the Public Defender's proposals and the Office of the High Commissioner for Human Rights (OHCHR)'s recommendations, the Ministry elaborated a new draft • Article 93 of the Law on Imprisonment refers to Local Monitoring Commissions and the criteria for the appointment of the Members; Ministry of Justice Decree No. 2190 sets out the corresponding rules; Local Monitoring Commissions may enter a penitentiary institution at any time without prior notification of the prison administration to conduct monitoring, receive complaints etc; they

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basis of which might be the Public Defender's Office. This national institution should also be vested with investigatory powers in relation to allegations of torture and ill-treatment, and provided with the necessary financial and human resources, and appropriate capacity-building, to carry out its functions effectively (o)			prepare recommendations aiming at the elimination of any violations in penitentiary institutions (including on education, food, health care) and public reports
			• On 1 December 2007, Local Monitoring Councils operated in 11 penitentiary establishments (n. 1, 2, 3, 4, 5, 6, 7, 8, women and juveniles in Tbilisi, prison hospitals in Tbilissi and in Ksani)
			• Selection process for the remaining five penitentiary establishments failed due to the lack of candidates
			• On the basis of a 2004 Memorandum of Understanding between the Ministry of Interior and the Public Defender, representatives of NGOs authorized by the Ombudsman can enter temporary detention facilities without prior notice; although the possibility of sending reports to the Prosecutor's office is provided, this has not been done in more than three years
			• In 2008, the Human Rights Unit of the General Inspection at the Ministry of Justice of Georgia continued to monitor the human rights situation in the penitentiary establishment.
			  • Meetings were held with 22 prisoners based on their appeals
			  • In 45 instances, the Unit has

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			recommended to the Penitentiary Department to carry out forensic expertise and to inquire into the facts • Seven appeals were submitted to the Prosecution service to initiate investigations • In three instances, free legal aid was provided to prisoners upon the request of the Unit • The Unit also monitors human rights standards and carried out unannounced visits to: • Ksani Prison No. 7. The recommendation of the Public Defender served as the basis for the visit • Gldani Prison Hospital. A letter from a prisoner served as the basis of the visit; and • Rustavi 2, Geguti and Gldani Prisons • Apart from the relevant institutions authorized to visit and monitor the TDCs, the Ministry of Internal Affairs cooperates with the international organizations who have expressed their interest in visiting TDCs. Representatives of the ICRC visited TDCs in Tbilisi and Gori. ***Non-governmental sources 2008**: By December 2007, all 11 public monitoring commissions had submitted written annual*

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			reports in a common format to the Ministry of Justice and presented them orally; • *The commissions have received technical support and monthly small allowances, to cover transportation and communication costs and, where identified by the commissions, emergency needs of prisoners* • *However, starting from early 2008, following a change in the administration of the Ministry of Justice, with the exception of one commission (Tbilisi n. 5 women's convicted and pretrial and juveniles' pretrial prison),commissions have not been given special access passes by the Ministry any more; also the already expired membership of the earliest established commissions was not renewed; the remaining commissions have not been set up (prison No. 8 in Gldani, juvenile colony); commission membership at Prison No.5 of Women and Juveniles expires at the end of November 2008* • *Despite its inclusion in the state plan for the implementation of the European Neighbourhood Policy, an NPM under OPCAT not yet established* • *The Ombudsman of Georgia and civil society representatives support the mixed model of an NPM; The Public*

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			Defender's Office prepared a package of draft amendments to the Organic Law on Ombudsman, which envisioned increasing the powers of the Ombudsman and his office in line with OPCAT, but status of the draft is unclear
All investigative law enforcement bodies establish effective procedures for internal monitoring and disciplining of the behaviour of their agents, with a view to eliminating practices of torture and ill-treatment (p)		• Law enforcement agencies, namely the Ministries of Justice and Interior and the Prosecution Service, have so-called "General Inspections", responsible for supervising the performance of their personnel and investigating misconduct • On 19 June 2006, the Code of Ethics for Prosecutors was approved by Order No. 5 of the Prosecutor General • Code of Police Ethics for the Ministry of Internal Affairs signed by the Minister of Interior on 5 January 2007 and entered into force	• **Government 2008**: The Human Rights Unit within the Ministry of Internal Affairs of Georgia conducts random and unscheduled checks in temporary detention isolators including the register, complaints, allegations of mistreatment, etc.; steps to ensure more transparency of the activities of the Unit were taken • In 2007, the Prisoner's Rights Protection Unit within the penitentiary system conducted 215 visits to prisoners, providing on the spot legal consultations; the Medical Supervision Unit checked the health conditions of 362 prisoners; In addition, the Monitoring Unit studied and replied to 895 and the Medical Supervision Unit - to 416 letters/complaints of citizens and other institutions
Law enforcement recruits undergo an extensive and thorough training curriculum, which incorporates human rights education		• At the Police Academy of the Ministry of Internal Affairs of Georgia a number of training sessions are regularly being conducted with support from	• **Government 2008**: Training programme • Probation and Prison Training Centre • International and Regional Human Rights Standards in the Penitentiary, OHCHR: 4-6 April 2008. Target

Recommendations (E/CN.4/2006/6/Add.3)	**Situation during visit** (See: E/CN.4/2006/6/Add.3)	**Steps taken in previous years** (See: A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
throughout, including on effective interrogation techniques, the use of police equipment, and existing officers should undergo continuing education (q)		different donors • In January 2006, a Training Centre was created at the Prosecutor's Office, and training courses were conducted • In the autumn of 2005, the Ministry of Justice established the "Penitentiary and Probation Training Centre"	group: 15 representatives from the penitentiary • The Centre, in collaboration with donor organizations/partners (UNDP, SIDA, EC, OSCE) organizes on a permanent basis, seminars/trainings on Reform in prison and probation systems (particular emphasis is paid to risk and needs based evaluations, as well as individual plans for serving a sentence): • Rustavi Prison No. 6, 19-22 February and 14-16 May 2008. Target group: 6 and 10 staff members; for Probation officers on 4-13 June 2008: Target group: 82 probations officers; for Staff of the Penitentiary in July 2008: Target Group: 99 staff members (11 day training in 4 sub-groups); and for Staff of the Penitentiary in October-December 2008. Target group: 22 staff members (11 day training in 6 sub-groups) • Prosecution Training Centre • The following trainings were organized for the Prosecutors in 2008: Seminar on Code of Ethics for Prosecutors and UN Guiding

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			Principles for Prosecutors: 20-21 April 2008. Target group 61 prosecutors; Training for Trainers in Human Rights: 10-12 April, 2008. Target group: 13 selected prosecutors - trainers; Council of Europe Human Rights Training with particular emphasis on the European Convention on Human Rights: 21-25 July 2008. Target group: 150 prosecutors and investigators; UNICEF Training for Trainers in Juvenile Justice: 25-27 November 2008. Target group: 30 selected prosecutors from all regions of Georgia - trainers; and a Training on Juvenile Justice, Pedagogy and Psychology: 20-21 June/16-17 July 2008. Target Group: 250 prosecutors and investigators • For 2009, the Training Centre for Prosecutors is planning trainings on: investigation of torture and ill-treatment cases; human rights issues in the criminal justice system; and the prohibition of discrimination • Training for policemen • The curriculum of the Police Academy of the Ministry of Internal Affaires contains an extensive

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			tactical training course, a course on local legislation, as well as one on international human rights law. These courses deal in detail with the following issues: • Legal framework for the use of physical force, special means and firearms, sequence and escalation of force, precautions to be taken, as well as types of penalties, including criminal sanctions for improper resort to coercion; the law on the police, which regulates the modalities of the use of coercive force by police, as well as relevant criminal and administrative legislation. The human rights law course puts special emphasis on the right to life, especially in conjunction with the right to use firearms by the policeman • Tactical training involves development of skills for action in critical circumstances, assessment of risk and danger in particular situation, and methods and modalities of the response in accordance with the legislation regulating use of force. During this course students also acquire the necessary negotiation skills for

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			managing critical situations and for ensuring that coercive force is used as a last resort • Use of special means and firearms - practical training for prospective policemen for legitimate and effective use of special means. At the end of the course a practical exam is held, where unsuccessful students are unable to graduate from the academy • Training on Human Rights and Investigation and Interrogation • Council of Europe training in Human Rights Training on interrogation techniques during investigation: 15 persons (inspector-investigators and representatives from regional police departments) • Council of Europe training on "Human Rights and Investigation - Interrogation": 20 detectives

<table>
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(E/CN.4/2006/6/Add.3)</th><th>Situation during visit
(See: E/CN.4/2006/6/Add.3)</th><th>Steps taken in previous years
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<tr><td></td><td></td><td></td><td>Statistical data for 2008 for Basic Courses<table><tr><th>Name of the Course</th><th>Quality</th></tr><tr><td>Basic Preparatory Course for Regional Inspectors</td><td>811</td></tr><tr><td>Basic Preparatory Course for Patrol Policemen</td><td>227</td></tr><tr><td>Additional Trainings for Criminal Policemen</td><td>66</td></tr><tr><td>Trainings for Junior Police Officers</td><td>193</td></tr><tr><td>Total</td><td>1 297</td></tr></table></td></tr>
<tr><td>Improve conditions of detention in the territories of Abhkazia and South Ossetia</td><td></td><td></td><td></td></tr>
<tr><td>Abolish the death penalty in Abkhazia</td><td></td><td></td><td>Non-governmental sources 2008: Death penalty not yet abolished; one man remains on ‘death row’ in Abkhazia; legal status unclear.</td></tr>
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Jordan

Follow-up to the recommendations made by the Special Rapporteur in the report of his visit to Jordan in June 2006 (A/HRC/4/33/Add.3, paras. 72-73).

16. By letter dated 4 December 2008, the Special Rapporteur sent the following table to the Government of Jordan, requesting information and comments on follow-up measures taken with regard to implementing his recommendations. The Special Rapporteur regrets that the Government has not provided input. He looks forward to receiving information on Jordan's endeavour to follow-up to his recommendations and reaffirms that he stands ready to assist in any efforts to prevent and combat torture and ill-treatment.

17. While commending the incorporation of a definition of torture in accordance with article 4 of the Convention against Torture, the Special Rapporteur regrets that he has not been provided with statistics on prosecutions of perpetrators of torture under the amended article of the Penal Code. Similarly, the Special Rapporteur has not received any information on compensation rewarded to victims of torture.

18. Furthermore, he was not informed of any steps taken with regard to the abolition of the special court system or the strengthening of legal safeguards against torture and ill-treatment, such as the right to access to legal counsel from the moment of arrest.

19. Finally, the Special Rapporteur wishes to reiterate his earlier recommendation to the Government of Jordan to consider ratifying the OPCAT and establishing a National Preventive Mechanism.

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
(a) The absolute prohibition of torture be considered for incorporation into the Constitution	No specific provision relates to the prohibition of torture, or cruel, inhuman or degrading treatment.		
(b) The highest authorities, particularly those responsible for law enforcement activities, declare unambiguously that the culture of impunity must end and that torture and ill-treatment by public officials will not be tolerated and will be prosecuted. The message should be spread that torture is an extremely serious crime which will be punished with severe (long-term) prison sentences	• Implicit societal tolerance for a degree of violence against alleged criminal suspects and convicts • Though unspoken, many were aware that abuse of suspects and detainees occurs and resigned that little could be done about it • Little public discussion about the situation of torture	H.E. King Abdullah and the director of the Public Security Directorate (PSD), Lt. Gen Muhammad Mahmud al-'Aitan issued clear instructions that there was to be no torture. The General Intelligence Directorate (GID) has issued written and oral instructions addressed to all personnel to refrain from abusing any detainee physically, verbally or emotionally, and providing for an increase in penalties for violations.	
(c) The crime of torture be defined as a matter of priority in accordance with article 1 of the Convention against Torture, with penalties commensurate with the gravity of torture	Torture was criminalized in accordance with article 208 of the Penal Code; however, the definition was not consistent with article 1 of the Convention against Torture.	**2007:** Article 208 of the Penal Code, amended by temporary law No. 49 of 2007, incorporates the definition of torture and increases the minimum prison sentence of three months to six months for perpetrators, and alternative and discretionary sentencing is restricted. Courts are expressly prohibited from taking into account mitigating circumstances and they are	***Non-governmental sources****: No one has been prosecuted under the amended article to date.* No statistics on prosecutions under the amended article have been provided to the Special Rapporteur.

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
		not permitted to impose suspended sentences.	
(d) The special court system within the security services - above all, police and intelligence courts - be abolished, and their jurisdiction be transferred to the ordinary independent public prosecutors and criminal courts	The special court system did not work effectively. The presumption of innocence was illusory, primacy was placed on obtaining confessions, public officials essentially demonstrated no sense of duty, and assumed no responsibility to investigate human rights violations against suspected criminals, and the system of internal special courts served only to shield security officials from justice.		
(e) An effective and independent complaints system for torture and abuse leading to criminal investigations be established	• Article 107 of the Code of Criminal Procedure (CCP), guaranteed every prisoner the right to complain to prison authorities, who have to forward the complaint to the Public Prosecutor • When allegations of torture against a member of the police were made, the Department of Public Prosecutions had to register it in an investigation report and	• The PSD established a radio station through which all complaints are directly aired and appropriate solutions sought; and installed complaints boxes in various prisons under the direct supervision of the PSD's Office of Complaints and Human Rights • The Ministry of Justice created a mechanism to enable detainees to make complaints and allocated qualified personnel to handle these complaints in the Ministry of Justice' Human Rights Department. At the same time, this would enable the	• ***Non-governmental sources***: P*risoners can complain to the Ministry of Interior's Public Security Directorate through Legal Affairs prosecutors who are present full time in seven prisons: Muwaqqar, Qafqafa, Swaqa, Jweideh men, Jweideh women, al-'Aqaba and Birain. The prison-based prosecutors work closely with officials in the Grievances and Human Rights Office, part of the Public Security Directorate, who visit the prisons every two weeks and empty the sealed complaints boxes* • *In February 2008 the Government-funded NCHR was allowed to open an office*

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
	refer the person to a forensic doctor • Within the Public Security Directorate a Complaints and Human Rights Office received complaints against its personnel • A human rights directorate within the Ministry of Interior was mandated to follow up on general human rights issues and complaints • The NCHR was tasked with addressing human rights issues through a monitoring mechanism and the examination of complaints related to government institutions	General Prosecutor to monitor the situation in prisons; the latter created a registry for complaints in the Attorney-General's Office	*inside Swaqa prison to receive complaints from prisoners on a weekly basis. However, the NCHR was not allowed access to Swaqa prison during disturbances which occurred in the prison in April 2008. The Ministry of Interior's Public Security Directorate was then reported to stop its cooperation with the NCHR following its critical reporting of the April 2008 events* • *However, partly due to the fear of retaliation and the lack of a clear strategy of Grievance and Human Rights officials for the protection of witnesses and complainants, these complaint mechanisms still fall short of protecting prisoners from torture and other ill-treatment*
(f) The right to legal counsel be legally guaranteed from the moment of arrest	CCP provided that, in the period following the arrest and before being presented to the Public Prosecutor, legal counsel could not be sought.		
(g) The power to order or approve arrest and supervision of the police and detention facilities of the prosecutors be transferred to	Security services were effectively shielded from independent criminal prosecution and judicial scrutiny as abuses by officials of those services were dealt with by a special court system,		***Non-governmental sources**: the discussion regarding separation of the two authorities is ongoing.*

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
independent courts	which lacked independence and impartiality.		
(h) All detainees be effectively guaranteed the ability to challenge the lawfulness of the detention before an independent court, e.g. through habeas corpus proceedings	CCP article121 to 129 guaranteed the right to habeas corpus. They also held that a detainee could challenge a detention order and any extension of a detention order before the competent court. However, this mechanism was not effective in practice.		***Non-governmental sources***: The right to habeas corpus is not effective in practice.
(i) Judges and prosecutors routinely ask persons brought from police custody how they have been treated and, even in the absence of a formal complaint from the defendant, order an independent medical examination in accordance with the Istanbul Protocol	It appeared that judges and prosecutors did not ask detainees how they had been treated in police custody.		
(h) All detainees be effectively guaranteed the ability to challenge the lawfulness of the detention before an independent court, e.g. through habeas corpus proceedings	CCP article121 to 129 guaranteed the right to habeas corpus. They also held that a detainee could challenge a detention order and any extension of a detention order before the competent court. However, this		***Non-governmental sources***: The right to habeas corpus is not effective in practice.

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	mechanism was not effective in practice.		
(i) Judges and prosecutors routinely ask persons brought from police custody how they have been treated and, even in the absence of a formal complaint from the defendant, order an independent medical examination in accordance with the Istanbul Protocol	It appeared that judges and prosecutors did not ask detainees how they had been treated in police custody.		
(j) Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pretrial detention, which should not exceed 48 hours. After this period they should be transferred to a pretrial facility under a different authority, where no further unsupervised contact	While CCP article 100 stipulated that a police officer who was not satisfied with a testimony should send the person concerned to the Public Prosecutor within 24 hours, who in turn had to question him/her within 24 hours. An individual could bring action for deprivation of liberty against an official who kept him or her in custody for over 24 hours without questioning. However, in practice persons were at times detained longer than 24 hours.		

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
with the interrogators of investigators should be permitted			
(k) The maintenance of custody registers be scrupulously ensured, including recording of the time and place of arrest, the identity of the personnel, the actual place of detention, the state of health upon arrival of the person at the detention centre, the time at which the family and a lawyer were contacted and visited the detainee, and information on compulsory medical examinations upon being brought to a detention centre and upon transfer	On paper, a file regarding each detainee informed about the time of arrival, state of health, details, reason for detention, authority which issued the arrest warrant or verdict, and all details relating to the person's time at the centre. Upon arrival, detainees were to undergo a medical check-up and the police doctor should prepare a medical report, indicating whether there were any traces of torture. If that was the case, a forensic report had to be prepared and judicial authorities were to be notified. However, this process was not effective in practice.	• **Non-governmental sources**: one register at the GID contains information about a detainee's name, nationality and charge, if any. Another register records visitors, and a third register contains medical records. Outside of the GID, detainees do not receive a standard medical examination • In regular prisons, registers generally contain the name of the detainee or prisoner, the nationality and charge, if any; the doctors have medical files of those seeking and receiving medical care, although no entry exam is performed	***Non-governmental sources***: *Not all the relevant information is included in registers (state of health, visit time for the arrested person etc).*
(l) Confessions made by persons in custody without the presence of a lawyer and that are not confirmed before a judge shall not be admissible as evidence against the persons who made the confession.	A confession could be accepted as the only evidence in a case if the court was convinced that it was made voluntarily and willingly (CCP article 159); in practice, confessions obtained under torture were inadmissible in court.	**2006:** Court of Cassation ruling No. 1513/2003 of 4 May 2006: "statements obtained as a result of violence and coercion cannot be relied upon to convict a defendant".	• ***Non-governmental sources***: *There are cases where "confessions" allegedly extracted under torture or other forms of duress continue to be admitted as evidence, especially by the State Security Court* • *The Court of Cassation has issued several rulings with regard to confessions taken*

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Serious consideration should be given to video and audio taping of interrogations, including of all persons present			*as a result of violence*
(m) All allegations of torture and ill-treatment be promptly and thoroughly investigated by an independent authority with no connection to the authority investigating or prosecuting the case against the alleged victim	• No ex officio investigations were undertaken even in the face of serious injuries sustained by a criminal suspect • Impunity was total	• A prosecutor appointed by the director of the PSD, who is at the same time an official of the PSD, carries out investigations into allegations of torture and ill-treatment against officials and prosecutes them in a police court staffed by judges who are PSD officials appointed by the PSD director as well • **2007:** Following encouragements by the international community and HE King Abdullah, the police prosecutor brought charges of "beatings leading to death" against prison guards in Aqaba, who beat a detainee to death in May 2007	
(n) Any public official found responsible for abuse or torture in this report, including the present management of CID and GID, certain police or prison officials involved in torture or ill-treatment,	Security officials referred to examples of disciplinary sanctions as evidence that there was no impunity for isolated acts of ill-treatment not amounting to torture. Examples of sanctions included loss of salary imposed on officers, or		The Special Rapporteur has not received information on the number of suspensions, prosecutions etc that took place.

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
as well as prosecutors and judges implicated in colluding in torture or ignoring evidence, be immediately suspended from duty, and prosecuted; on the basis of his own (very limited and short-time investigations) the Special Rapporteur urges the Government to thoroughly investigate all allegations contained in the appendix with a view to bringing the perpetrators to justice	dismissals from service.		
(o) Victims of torture and ill-treatment receive substantial compensation proportionate to the gravity of the physical and mental harm suffered, as well as adequate medical treatment and rehabilitation	Victims of torture could pursue private claims following a court decision in their favour.	No compensation has been awarded to victims of torture.	The Special Rapporteur has not received any information on the number of compensation cases and their results.
(p) The declaration be made with respect to article 22 of the Convention against	No declaration		

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Torture recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the provisions of the Convention			
(q) Non-violent offenders be removed from confinement in pretrial detention facilities, subject to non-custodial measures (i.e. guarantees to appear for trial, at any other stage of the judicial proceeding and, should occasion arise, for execution of the judgement)		• A committee was created within the Ministry of Interior to consider alternative sentencing measures • Transfer of the corrections department from the Ministry of Interior to the Ministry of Justice is being discussed • An "Office for Prison Reform" has been mandated to devise strategies and plans to modernize mechanisms to accomplish the goal of combating torture. To this end, the services of the Kerik Group, a company that specializes in prison management services have been contracted • A new Reform and Rehabilitation Centre was built in Al-Muqar to address the problem of overcrowding. Construction of more new centres is being considered	The Special Rapporteur has not received any further information on the transfer of the corrections department to the authority of the Ministry of Justice and on the introduction and application of non-custodial measures.

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
		• Measures were taken to improve the conditions in GID detention • Inmates working in prisons have been included in social security programmes	
(r) Pretrial and convicted prisoners be strictly separated	The Government informed the Special Rapporteur that Correction and rehabilitation centres operate on a system based on separation of convicted persons from persons awaiting trial.	**2008:** Two new prisons were opened.	• ***Non-governmental sources****: According to the Ministry of Interior's Public Security Department, on 7 April 2008, authorities began to separate pretrial and administrative detainees from convicted prisoners. Qafqafa, Swaqa and Muwaqqar prisons seem to be intended exclusively for convicted prisoners* • *Convicts are further segregated according to age, health, crime, and general behaviour. Under article 3(d) of the 2007 Law on the Correction and Rehabilitation Centers, the classification is to be made by a psychiatrist, a general doctor and a social worker*
(s) The Criminal Procedure Code be amended to ensure that the automatic recourse to pretrial detention, which is the current de facto general practice, be authorized by a judge strictly only as a			

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
measure of last resort, and the use of non-custodial measures, such as bail and recognizance, are increased for non-violent, minor or less serious offences			
(t) Due to extremely harsh prison conditions and routine practice of torture, the Al-Jafr Correction and Rehabilitation Centre be closed without delay	Detainees are routinely beaten and subjected to corporal punishment amounting to torture. The isolation and harshness of the desert environment compounds the already severe conditions of the prisoners.	**2006:** The Government closed Al-Jafr Prison in December 2006.	
(u) Females not sentenced for a crime but detained under the Crime Prevention Law for being at risk of becoming victims of honour crimes be housed in specific victim shelters where they are at liberty but still enjoy safe conditions	No allegations of ill-treatment were received in the Juweidah (Female) Correction and Rehabilitation Centre. There is a policy of holding females in "protective" detention, under the provisions of the 1954 Crime Prevention Law, because they are at risk of becoming victims of honour crimes.	**2007:** A victims' centre became operational in 2007, however, not all women in protective custody have been moved to the centre. Furthermore, the centre seeks reconciliation and does not have a mandate to protect the women at risk.	• ***Non-governmental sources***: *Those at risk of becoming victims of "honour crimes" continue to be detained in Jweideh prison* • *The Crime Prevention Law is still in use in relation to the arrest of women*
(v) Security personnel shall undergo extensive and thorough training using a curriculum that	None of the directors of prisons, pretrial or police detention centres had allegedly been aware of any	• Initiatives within the PSD include: distribution of the Convention against Torture to law enforcement personnel and encouragement of	• ***Non-governmental sources***: *Several programmes and training courses have been implemented in this regard; the Royal Police Academy incorporated*

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
incorporates human rights education throughout and that includes training in effective interrogation techniques and the proper use of policing equipment, and that existing personnel receive continuing education	allegations of torture.	senior officers to bring it to the attention of their subordinates • Inclusion of CAT in all basic training curricula, lectures and promotion exams for security personnel. The Kerik Group is also training correction staff and modifying inspection mechanisms • ***Non-governmental sources:*** *In spite of some reforms (mainly training and construction of new prisons), no effective mechanisms of prevention, monitoring and prosecution of perpetrators have been introduced* • *The issue of prison reform should be publicly discussed with local NGOs and reviewed by the Office of the United Nations High Commissioner for Human Rights to ensure it incorporates the Special Rapporteur's recommendations*	*some sessions about torture and prisoners' rights within its curriculum*
(w) Security personnel recommended for United Nations peacekeeping operations be scrupulously vetted for their suitability to serve			
(x) The Optional Protocol to the Convention against Torture be ratified, and	No ratification	• Visits to detention facilities by the PSD's Office of Complaints and Human Rights, in conjunction with the NCHR and other civil society	

Recommendation (A/HRC/4/33/Add.3)	**Situation during visit** (A/HRC/4/33/Add.3)	**Steps taken in previous years** (to be found in A/HRC/7/3/Add.2)	**Information received on steps taken since December 2007/current situation**
a truly independent monitoring mechanism be established - where the members of the visiting commissions would be appointed for a fixed period of time and not subject to dismissal - to visit all places where persons are deprived of their liberty throughout the country.		organizations have been intensified to ascertain wrongful practices and violations to which inmates might be subjected to, and to compile reports to ensure that those who commit violations will be held accountable • A visit to prisons to meet with inmates was organized for the mass media and satellite television stations. The NCHR is working to establish joint visits to detention facilities with representatives of the General Prosecutor's Office on a weekly and monthly basis	
(y) Systematic training programmes and awareness-raising campaigns be carried out on the principles of the Convention against Torture for the public at large, security personnel, legal professionals and the judiciary.	The Government informed it promotes human rights concepts through awareness-raising programmes disseminated by the media and recently incorporated these concepts into the academic curricula. In various meetings with government officials the Special Rapporteur found a lack of awareness of the seriousness of torture.	Training sessions are organized for judges in the Judicial Institute in which emphasis is placed on combating torture in prisons. Prosecutors, together with judges, have been trained by national and international NGOs on the Convention against Torture and on juvenile justice matters.	• ***Non-governmental sources***: *Several training workshops have been carried out by the National Human Rights Centre*

Nepal

Follow-up to the recommendations made by the Special Rapporteur in the report of his visit to Nepal in September 2005 (E/CN.4/2006/6/Add.5, paras. 33-35).

20. On 2 December 2008, the Special Rapporteur sent the below table to the Government of Nepal requesting information and comments on measures taken with regard to the implementation of the recommendations made after his fact-finding mission in 2005. The Special Rapporteur regrets that the Government has not provided input. He looks forward to receiving information on Nepal's efforts to follow up to his recommendations and he reaffirms that stands ready to assist in all efforts to prevent and combat torture and ill-treatment.

21. The Special Rapporteur notes that the political situation in Nepal has changed significantly since the visit. In this context, he welcomes that the elections of April 2008 were widely found to have been free and fair, but he regrets the upsurge of violence ahead of the polls.

22. The Special Rapporteur notes with satisfaction that under the new Government that took office in August 2008, a 50-point Common Minimum Programme (CMP) was agreed, focusing on constitutional supremacy, judicial independence, the rule of law, and fundamental rights. He welcomes that the CMP aims at ending the culture of impunity and provides for the establishment of several commissions, including the Truth and Reconciliation Commission and a Commission on Disappearances, but regrets that in practice the issue of impunity for past and current human rights violations has not received sufficient attention from the authorities. He further expresses concern regarding reports that suggest that torture allegations continue to frequently not be properly investigated and that perpetrators are not prosecuted or punished.

23. While noting that efforts are under way to reform the criminal legislation, he remains concerned that the definition and criminalization of torture in Nepalese law does not satisfy the requirements of articles 1 and 4 of the Convention against Torture. The Special Rapporteur notes that long periods of illegal and/or incommunicado detention are less frequent but still occur and is concerned that lack of access to adequate medical and legal assistance is common.

24. The Special Rapporteur further notes that no independent monitoring mechanism supervising all places of detention has been created. In this context, he strongly re-iterates his recommendation to the Government to ratify the Optional Protocol to the Convention against Torture.

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
(a) **Highest authorities**, particularly those responsible for law enforcement activities, **declare unambiguously that the culture of impunity must end and that torture and ill treatment by public officials will not be tolerated and will be prosecuted**	Special Rapporteur was repeatedly told by senior police and military officials that torture was acceptable in some situations.	**2007:** Interim Constitution prohibiting torture adopted; however torture is not criminalized in domestic laws.	• In late August 2008, the "Common Minimum Programme" (CMP) was agreed. The 50-point programme, among other commitments, states that the culture of impunity shall be ended, through consolidating law and order. It provides that the administration and security organs should be independent and accountable, and that a Code of Conduct (CoC) should be developed • The Home Minister has stated publicly that the lack of public security and absence of the rule of law will be addressed; he has also encouraged the police to restore law and order; on 7 September 2008, he gave instructions to the Police Inspector General to establish law and order
(b) **The crime of torture is defined as a matter of priority** in accordance with article 1 of the Convention against Torture, with penalties commensurate with the gravity of torture	• Torture prohibited in article 14(4) of the 1990 Constitution • Torture was not criminalized in domestic legislation	• **2007:** Inter-ministerial consultations on draft torture bill underway. • Interim Constitution of January 2007 article 26: "(1) No person who is detained during investigation or for enquiry or for trial or for any other reason shall be subjected to physical or mental torture, nor any cruel, inhuman or degrading treatment. (2) Actions pursuant to clause (1) shall be punishable by law and any person	***Non-governmental sources**: Despite corresponding constitutional provisions, torture has not been criminalized by law. The draft bill repeatedly announced by the Government has not been published.* *The CMP provides for the appointment of a high-level security committee to develop a national security policy, the creation of a National Peace and Rehabilitation Commission, a High Level Truth and Reconciliation Commission (TRC), a High Level Commission for State Restructuring, a Commission on*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
		so treated shall be compensated in accordance with the decision determined by law." **2006:** Section 62 of the Army Act 2006 (amendment of Military Act 1959) criminalizes torture (without providing a definition) and requires investigations by civilian authorities headed by the Deputy Attorney General. A special court presided by an Appellate Court Judge is competent for such crimes.	*Disappearances, and a Land Reforms Commission.* The Special Rapporteur has not received information on the current status of the draft torture bill on the numbers of persons indicted and convicted on the basis of Section 62 of the Army Act.
(c) **Incommunicado detention made illegal, and persons held incommunicado released without delay**	A large number of persons taken involuntarily by security forces were being held incommunicado at unknown locations.	**2007:** Interim Constitution of 2007 article 24 (2) provides for immediate access to legal counsel, and, according to 24 (3), detainees must be presented before a judge within 24 hours of arrest.	• ***Non-governmental sources**: Although incommunicado detention is less common now than during the conflict, unacknowledged detention, failure to observe court orders regarding releases, and illegal (unacknowledged) detention, particularly by the Armed Police Force (APF), continue to occur from time to time. Often the arrest date recorded is the day a person is presented to the court, even if an individual has spent several days in incommunicado detention* • *Systematic incommunicado detention of political detainees ended with the ceasefire in April 2006, however cases of incommunicado detention for up to 11 days continue to be reported.*
(d) Those legally arrested should not be held in facilities under	Legislation (2004 Terrorist and Disruptive Activities (Control and Punishment) Ordinance	**2007:** According to 24 (3) of the Interim Constitution detainees must be presented before a judge within 24	***Non-governmental sources**: In practice, the relevant constitutional provisions are not respected. In many cases detainees continue*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pretrial detention**, which should not exceed 48 hours.** After this period they should be transferred to a pretrial facility under a different authority, where no further unsupervised contact with the interrogators or investigators should be permitted	(TADO) and the 1989 Public Security Act (PSA)) effectively provided the police and the military with sweeping powers to detain suspects for preventive reasons, in some cases for up to 12 months; (Section 15 (2) of the State Cases Act requires that arrested persons be produced before the "appropriate authority" within 24 hours, and prohibits any person from being held for a longer period without orders of such authority.)	hours of arrest. However, there are some significant gaps in constitutional protection, e.g. with regard to the rights of non-citizens, to liberty and security and provisions permitting derogation from rights during a state of emergency. **2006:** The Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO) - under which many detainees were held without charge or trial under the previous Government - expired at the end of October 2006 and has not been renewed.	*not to be provided with arrest/detention warrants and to be held in police custody for extended periods of time, up to several weeks.*
(e) **Maintenance of custody registers be scrupulously ensured**, including recording of the time and place of arrest, the identity of the personnel, the actual place of detention, the state of health upon arrival of the person at the detention centre, the time family and a lawyer were contacted and visited the detainee, and	Detainee registers were poorly kept, if at all.	**2006:** In March 2006, the then Office of the Prime Minister and the Council of Ministers opened the Human Rights Central Registry, whose functions included, inter alia, maintaining a list of persons detained throughout the country. National Army, Home Office, Armed Police Force (APF) and Nepal Police (NP) staff had been assigned to the office and were starting to develop a detention database, but by the end of 2006, no data had been entered for the over 7,000 detainees and prisoners officially recognized as being held	• ***Non-governmental sources****: Detention registers are not systematically updated; the police use two registers: one lists the name of detainees before, and the other after remand; neither lawyers nor the public have access to registers; as the police are legally entitled to detain a person for 24 hours, they often do not register the names of arrested/detained persons immediately and if someone is released without charge after a short period of detention (which could exceed 24 hours), their names often do not*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
information on compulsory medical examinations upon being brought to a detention centre and upon transfer		throughout Nepal.	*feature in police registers* • *The Armed Police Force (APF) does not have clear legal powers to arrest and detain; however, it has become increasingly involved in arrests related to armed groups; it does not operate or maintain official detention facilities or detention registers*
(f) All detained persons be **effectively guaranteed the ability to challenge the lawfulness of their detention,** e.g. through habeas corpus. Such procedures should function effectively and expeditiously	• The right to habeas corpus was denied by virtue of article 14 (7) of the Constitution to any person arrested or detained under any law providing for preventive detention • Whereas safeguards were contained in preventive detention legislation and the Supreme Court had the right to issue habeas corpus writs with respect to preventive detention, these safeguards were not effective	**2007:** In June 2007, the Supreme Court issued a groundbreaking ruling in relation to disappearances resulting from the conflict, based on the work of its Task Force set up for a group of petitions of habeas corpus. As of January 2008, the ruling had yet to be implemented. A credible commission of inquiry had yet to be set up. **2006:** In 2005 and 2006, 640 and 647 habeas corpus cases, respectively, were lodged with the Supreme Court.	***Non-governmental sources****: While the denial of detainees' rights to habeas corpus is not as serious as during the conflict, concerns remain as to delays in bringing detainees before a court within 24 hours as provided for by the Constitution.*
(g) **Confessions made by persons in custody without the presence of a lawyer and that are not confirmed before a judge not be admissible as evidence against the persons**	1974 Evidence Act declares statements made under torture inadmissible; however torture was systematically practiced to extract confessions.		• ***Non-governmental sources:*** *lawyers are often not present when detainees initially make "confessions", which are frequently extracted through beatings, threats or other forms of pressure. Police openly admit that they rely heavily on confessions for criminal investigations, and that the latter constitute the main*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
who made the confession. Serious consideration should be given to video and audio taping of all persons present during proceedings in interrogation rooms			*and sometimes exclusive part of an investigation. Reportedly, some members of the police even implied that they would not be able to obtain a confession without using force* • *It is common for defendants to inform courts at the time of committal hearings that they did not give statements voluntarily and, often, such statements are ruled out as evidence. However, in many other cases this does not happen, or the victim is afraid to allege torture or other ill-treatment*
(h) Judges and prosecutors routinely ask persons brought from police custody how they have been treated and, even in the absence of a formal complaint from the defendant, order an independent medical examination	There was a lack of prosecutions in the face of mounting and credible allegations of torture and other acts of ill-treatment by the police, APF and RNA. There was a lack of confidence in the justice system and the rule of law on the part of victims and their families.		• ***Non-governmental sources:*** *most detainees do not make formal complaints of torture and other ill-treatment when brought before a judge or prosecutor, mostly for fear of reprisals. Although some judges have developed the practice of asking male detainees to remove their shirts and question them about their treatment at the hands of the police, this practice has not become uniform and, in any case, is inadequate to detect torture or other ill-treatment, particularly methods which do not leave physical marks and psychological torture or ill-treatment* • *Judges do not systematically test the voluntary nature of a confession and many confessions extracted under duress*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
			are admitted as evidence; which is exacerbated when the victim is afraid of making allegations of torture or ill-treatment to the court in the presence of the police officers in whose custody they remain
(i) **All allegations of torture and ill-treatment be promptly and thoroughly investigated by an independent authority with no connection to that investigating or prosecuting the case against the alleged victim.** In the opinion of the Special Rapporteur, the NHRC might be entrusted with this task	No ex-officio investigations	**2007:** No criminal investigations into torture allegations were launched, however, in one case an internal inquiry found four police officers responsible for torture and imposed minor disciplinary sanctions; Investigations were launched in one prominent case of death in custody. The Report of the Rayamajhi Commission set up in 2006 to investigate human rights violations, including excessive use of force during the April 2006 protests, was made public in August 2007.	• ***Non-governmental sources:*** *although article 136 (3) (c) of the Interim Constitution specifies that the Attorney General, on the basis of complaints or information received by him by any means, has the power to investigate allegations of inhuman treatment of any person in custody, no reports of any investigations have been received* • *The "investigations" by the Nepal Police Human Rights Cells consist of sending a letter detailing the complaint to the relevant District Police Office (DPO), asking it to respond to the allegations* • *No reports of suspensions of police officers pending the outcome of the investigations were received* • *The report of the Rayamajhi Commission recommended the prosecution of 31 members of the Nepalese Army, Nepal Police and Armed Police Force, largely in connection with killings which had occurred in the context of the protests, but no action has been taken to initiate prosecutions by the authorities. Nobody*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
			has been prosecuted for the many cases of serious beatings which occurred in the context of the protests • *There have been no independent investigations into the allegations of systematic torture and disappearances in 2003/2004 by the Bhairabnath Battalion, which were documented in OHCHR's May 2006 report. In December 2007, a site was identified where the body of one of the disappeared may have been cremated. A group of Finnish forensic experts visited the country in January 2008 and assisted local experts in the exhumation of some of the remains. As of early November 2008, however, the results of the exhumations have not been made public*
(j) **Any public official indicted for abuse or torture**, including prosecutors and judges implicated in colluding in torture or ignoring evidence, be immediately **suspended from duty pending trial, and prosecuted**	The 1996 Compensation Relating to Torture Act is not in line with the Convention's requirements for effective remedies.	**2007:** Since 1996, Nepalese police has taken departmental action against 21 police personnel in 11 cases for alleged torture, out of which 6 cases led to prosecutions.	***Non-governmental sources:*** *torture suspects are not prosecuted or punished. In a few cases, police have been briefly suspended pending an internal inquiry. Impunity for current and past crimes continues. Not a single member of the security forces or the CPN-M has been held criminally accountable or convicted for acts of torture, other ill-treatment or other human rights abuses committed during the conflict. Instead, attempts to grant amnesties for severe human rights violations continue despite the Government's plans to set up the*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
			TRC and the Disappearances Commission. The Special Rapporteur has not received information on the number of indictments and convictions in relation to the crime of torture, on suspensions of suspected officials and other disciplinary actions.
(k) Victims of torture and ill-treatment receive substantial compensation proportionate to the gravity of the physical and mental harm suffered, and adequate medical treatment and rehabilitation	Since the 1996 Torture Compensation Act (TCA) entered into force, several decisions to award compensation had been taken. However, compensation was only paid in one case.	• **2007:** Compensation has been awarded in a few cases under the TCA, but has not always been paid to victims or their families, and usually without proper investigations to establish causes and responsibilities • Compensation packages depend on what the Government can afford. The Government provided Rupees (Rs.) 1,625,000 (about US$ 21 200) in financial aid to twelve victims who were recommended by the National Human Rights Commission • **2006:** Compensation awarded by the courts is often not paid out or paid out only after prolonged delays	• ***Non-governmental sources:*** *in the 12-year history of the TCA, just over 200 victims of torture or their relatives have filed compensation cases with the courts. However, only 52 cases have been decided in favour of the victims, and in only seven cases was the money actually paid to the victim* • *As part of the peace process, the Government announced that reparation will be provided to victims of the conflict, including torture victims. Chief District Officers (CDOs) are currently registering names of victims or their relatives. However, the criteria for determining who is eligible and how the process will be conducted have not been clarified, and concerns have been raised about the need for relief to be fairly and impartially distributed, and to respect the principle of non-discrimination*
(l) The **declaration be made with respect to article 22 of the**	No action		

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
Convention against Torture recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the provisions of the Convention			
(m) The **Optional Protocol to the Convention against Torture be ratified** and a truly independent monitoring mechanism established to visit all places where persons are	No ratification		
(n) The appointments to **the National Human Rights Commission**, in the absence of Parliament, be undertaken through a transparent and broadly consultative process	A transparent and consultative process in the appointment of commissioners was lacking.	**2007:** Under the Interim Constitution, the National Human Rights Commission (NHRC) was transformed into a constitutional body; in October 2007, the International Coordinating Committee of National Human Rights Institutions (ICC), restored 'A' status accreditation. **2006:** the Commissioners of the NHRC, who had been appointed by the then Royal Government, resigned in July 2006. However, the work of the	

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
		NHRC, already undermined by the manner in which the previous commissioners were appointed, has been hampered by long delays in appointing new commissioners.	
(o) The **Rome Statute of the International Criminal Court be ratified**	No ratification	**2006:** On 25 July 2006, the House of Representatives adopted a resolution directing the Government of Nepal to ratify the Rome Statute. On 14 December 2006, a task force established by the Council of Ministers to examine the House of Representatives' July 2006 resolution, submitted its report to the Minister of Foreign Affairs.	Despite a parliamentary resolution calling upon the Government to accede to the Rome Statute, no action has been taken so far.
(p) Police, the armed police and RNA recruits undergo extensive and **thorough training using a curriculum that incorporates human rights education throughout and that includes training in effective interrogation techniques and the proper use of policing equipment,** and that existing personnel receive continuing education		• **2007:** A number of workshops and training seminars on human rights and international humanitarian law (IHL) were conducted for NP and APF staff; an IHL classroom was established in the army headquarters • Training with regard to scientific methods of investigations was provided to law enforcement officials and police officers • **2006:** The Nepal Police Human Rights Cell issued circulars instructing the police not to use torture • APF issued a booklet on human	

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
		rights promotion and protection with a section on state responsibility to prevent torture	
(q) Systematic training programmes and awareness-raising campaigns be carried out on the principles of the Convention against Torture for the public at large, security forces personnel, legal professionals and the judiciary		**2007:** The Ministry of Law, Justice and Parliamentary Affairs, the Ministry of Foreign Affairs, INSEC (Informal Sector Service Centre) and CIVIT (Rehabilitation Centre for Victims of Torture Nepal) translated CAT-related documents into Nepali; since then copies have been provided to security officers, lawyers and general public.	
(r) Security forces personnel recommended for United Nations peacekeeping operations be scrupulously vetted for their suitability to serve, and that any concerns raised by OHCHR in respect of individuals or units be taken into consideration		According to the Government, since 15 May 2005, the Nepal Army (NA) has implemented the policy that those who are found guilty of human rights violations are disqualified from participating in UN peacekeeping missions. However, since impunity for perpetrators of human rights violations is quasi-total, it is questionable whether this type of vetting reaches many alleged perpetrators.	***Non-governmental sources:*** *the NA has not progressed in identifying or punishing those responsible for systematic and serious human rights violations during the conflict. The army list of personnel excluded from peacekeeping missions on the grounds of having violated human rights, was virtually the same list as the one included in a November 2007 document provided by the Army to OHCHR.*
(s) The Special Rapporteur calls on the Maoists to end torture and other cruel, inhuman or degrading treatment or punishment and to	The Special Rapporteur also received shocking evidence of torture carried out by the Maoists.	**2007:** The instances of extortion, kidnapping and intimidation by the Maoists have declined significantly after the signing of the peace agreement.	***Non-governmental sources:*** *although the number of abductions, assault, ill-treatment and other abuses by CPN-M dropped significantly immediately after the signing of the Comprehensive Peace Agreement and has further been reduced after April 2008,*

Recommendation (E/CN.4/2006/6/Add.5)	**Situation during visit** (See E/CN.4/2006/6/Add.5)	**Steps taken in previous years** (See A/HRC/4/33/Add.2 and A/HRC/7/3/Add.2)	**Steps taken since December 2007/current situation**
stop the practice of involuntary recruitment, in particular of women and children			*reports of such abuses by the Young Communist League (YCL) have continued.*
Torture and ill-treatment against women			***Non-governmental sources:*** *women continue to be tortured, ill-treated and sexually harassed by the police. For example, during investigations, women report being sexually harassed with abusive language, stripped naked, beaten and threatened with rape. In many cases, male police officers were found to have tortured female detainees. Moreover, during incommunicado detention, women are often sexually abused and then threatened not to disclose what happened.*
Torture and ill-treatment against children			The widespread practice of arbitrary detention, torture and other ill-treatment of juveniles in police custody is a major concern; furthermore, juveniles are detained in inappropriate conditions.

Nigeria

Follow-up to the recommendations made by the Special Rapporteur in the report of his visit to Nigeria in March 2007 (A/HRC/7/3/Add.4, paras. 75-76).

25. By letter dated 9 December 2008, the Special Rapporteur sent the following table to the Government of Nigeria, requesting information and comments on measures taken to implement his recommendations. The Special Rapporteur regrets that the Government has not provided input. He looks forward to receiving information on Nigeria's endeavour to follow up to his recommendations and reaffirms that he stands ready to assist Nigeria in its efforts to prevent and combat torture and ill-treatment.

26. The Special Rapporteur notes with satisfaction that a bill providing for the establishment of an anti-torture commission has been tabled in the Senate, and calls upon the members of Parliament to work for its expeditious adoption and effective implementation. A truly independent and effective commission would be a crucial step forward in the fight against the prevailing climate of impunity which constitutes an environment conducive to further acts of torture.

27. While there are legal provisions in place covering important - but not all necessary - elements for the prevention, prohibition and prosecution of torture, the current legal framework is undermined by the lack of implementation, and thus rendered meaningless for the overwhelming majority of detainees. In this context, the Rapporteur would also like to reiterate his recommendation to the Government of Nigeria to consider the ratification of the OPCAT.

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
Impunity		
(b) The highest authorities, particularly those responsible for law enforcement activities, should declare **unambiguously** that the culture of impunity must end and that torture and ill-treatment by public officials will not be tolerated and will be prosecuted. The **message** should be spread that torture is an extremely serious crime which will be punished with severe (long-term) prison sentences	No unequivocal condemnation of torture and its qualification as a most serious crime.	***Non-governmental sources****: Torture and other forms of ill-treatment are still widespread. The different kinds of torture methods include, inter alia, beatings, clubbing of the sole of the feet or ankles, suspension, submersion in water; rape, mock executions, shooting into the feet, burning with cigarettes or hot irons.*
(c) The crime of torture should be defined as a matter of priority in accordance with article 1 of the Convention against Torture, with penalties commensurate with the gravity of torture	There was no provision specifically criminalizing torture as defined in article 1 of the Convention against Torture. The latter has not been incorporated in domestic laws, which therefore does not provide for penalties related specifically to acts of torture.	***Non-governmental sources****: The Senate Committee on Judiciary indicated in October 2008 that it intended to pursue the adoption of legislation specifically criminalizing torture.*
(d) An effective and independent complaints system for torture and abuse leading to criminal investigations should be established, similar to the Economic and Financial Crimes Commission	• Perpetrators were in general not held accountable due to the lack of functioning complaint mechanisms and remedies; victims were found to have accepted that impunity was the natural order of things • Attempts to register complaints were often met with intimidation, or investigations lacked independence as they could be conducted by the police themselves • Upon request by the Government, on 5 April 2007, the UN Special Rapporteur forwarded a draft law on the establishment of a Torture investigation commission	***Non-governmental sources****: A draft bill on the establishment of an anti-torture commission is pending in the Senate. However, no further actions have been taken.*
Safeguards		
(e) The **right to legal counsel** should be legally guaranteed from the moment of arrest	In spite of legal provisions to this effect, the vast majority of detainees did not have legal counsel.	• ***Non-governmental sources:*** *Constitution article 35 (1) guarantees the right to legal*

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
		counsel from the moment of arrest; however it is often not respected;many detainees are unable to meet the bail conditions and once detained, the majority of detainees have no lawyer to act on their behalf because they cannot afford one • *The Federal Legal Aid Council (LAC) suffers from limited capacity, with only 91 lawyers and a mandate confined to specific crimes, including murder, manslaughter, assault, stealing, affray and rape (armed robbery is excluded)* • *State level initiatives such as the Ogun state citizens' rights department and the Lagos State Government Office of the Public Defender, which provide legal counsel to those who cannot afford it, are commendable but the capacity of such departments is limited. These bodies have restricted funding and it is unclear to what extent they are independent since they formally come under the state ministry of justice. A bill to extend the mandate of the LAC is pending before the National Assembly; however it has been pending for over three years*
(f) The power to order or approve arrest and supervision of the police and detention facilities should be vested solely with **independent courts**		***Non-governmental sources**: Although guaranteed by law, in practice, the detainees' right to challenge the lawfulness of their detention and to be presented promptly before a court is compromised by poor record keeping, secrecy on the part of the police and dependent on their*

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
		financial capacity, often leading to extended detention for periods of up to several weeks in police stations before being presented to court.
(g) All detainees should be effectively guaranteed the ability to **challenge the lawfulness of the detention** before an independent court, e.g. through habeas corpus proceedings	De facto the vast majority of detainees did not have the ability to challenge the lawfulness of their detention, due to the lack of financial means, the overload of the entire judicial system as well as a climate of fear.	
(h) **Judges and prosecutors should routinely ask** persons brought from police custody how they have been treated and, even in the absence of a formal complaint from the defendant, order an independent medical examination in accordance with the Istanbul Protocol	While in principle empowered to do so, judges and prosecutors did not ex-officio enquire about potential torture and ill-treatment in police custody.	
(i) Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pretrial detention, which should **not exceed 48 hours**. After this period they should be transferred to a pretrial facility under a different authority, where no further unsupervised contact with the interrogators or investigators should be permitted	While legal provisions foresaw that persons arrested or detained shall be brought before a judge within one or two days, the majority of suspects was deprived of their liberty for longer periods without the required judicial oversight.	***Non-governmental sources**: Extended detention at police stations was the norm. Numerous people awaiting trial spend weeks in the police station after their arrest, without seeing a judge despite the constitutional guarantee to be brought before a judge within 48 hours. Police routinely detain suspects and witnesses prior to investigation, including for non-serious offences and offences for which suspects ought to be granted bail; this has led to a situation where even family members or witnesses can end up behind bars.*
(j) The maintenance of **custody registers** should be scrupulously ensured, including recording of the time and place of arrest, the identity of the personnel, the actual place of detention, the state of health upon arrival of the person at the detention centre, the time at which the family and a lawyer were contacted and visited the	The Criminal Code stipulated the keeping of custody registers, however, in practice these records were frequently incomplete or inaccurate.	• ***Non-governmental sources**: There is no reliable archival and record keeping system or database to enable effective oversight supervision by the relevant officers* • *Lagos State has implemented a new computerized case tracking system, following cases through from arraignment to conclusion.*

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
detainee, and information on compulsory medical examinations upon being brought to a detention centre and upon transfer		*However, the tracking commences only when a detainee is produced before court, not at the point of arrest* • *It is normal for prison authorities to receive prisoners who bear signs of torture. Some prison officials refuse to accept detainees from the police because of the extent of their injuries*
(k) Confessions made by persons in custody without the presence of a lawyer and that are not confirmed before a judge shall **not be admissible** as evidence against the persons who made the confession. Serious consideration should be given to video and audio taping of interrogations, including of all persons present	Torture was frequently inflicted with the aim of extracting confessions, which were used in court proceedings despite existing legal safeguards. The criminal justice system relied heavily on confessions.	• ***Non-governmental sources**: The vast majority of convictions are based on confessions. Even in those cases in which allegations of torture are raised on the defendant's behalf, and investigations regarding such allegations take place, the confessions extracted under torture are declared admissible by the judiciary in most cases* • *Once in court, the defendant and their counsel are responsible for documenting all incidences of torture and organizing medical examinations* • *Under the Evidence Act, confessions extracted under inducement, threat or promise cannot be used in court. In practice, confessions are often admitted as evidence in court* • *The new criminal procedures in Lagos State provide for video taping of interrogations; where no video is available, the lawyer of the suspect should attend the interrogation*
(l) All allegations of torture and ill-treatment should be **promptly and thoroughly investigated** by an independent authority with no	• Attempts to register complaints could be met with intimidation, or investigations lack independence as they could be conducted by	***Non-governmental sources**: Cases of torture or other ill-treatment are dealt with internally within the Police and reportedly often informally within a*

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
connection to the authority investigating or prosecuting the case against the alleged victim	the police • No information was provided by the Government on evidence of successful criminal prosecutions of perpetrators of torture, payment of compensation to victims, or statistics on disciplinary sanctions meted out to officers	*particular station. Only disciplinary steps are taken; most of the law enforcement agencies do not have an effective or transparent mechanism of internal control and discipline. This encourages arbitrariness and results in impunity; no concrete information about any disciplinary measures taken any against member of the Nigerian Police Force on the grounds of their responsibility for torture or other ill-treatment is available.* The Special Rapporteur has not received any recent information on investigations and prosecutions in relation to the cases of Mr. Elijah John and Mr. Bayo Abdurmo Adekunk in CID Panti, Lagos and Mr. Mohamed Bello, CID Kaduna.
(m) Any public official found responsible for abuse or torture in this report, either directly involved in torture or ill-treatment, as well as implicated in colluding in torture or ignoring evidence, should be **immediately suspended** from duty, and prosecuted. The Special Rapporteur urges the Government to thoroughly investigate all allegations contained in appendix I to the present report with a view to bringing the perpetrators to justice	No information was provided by the Government on evidence of successful criminal prosecutions of perpetrators of torture, or payment of compensation to victims, or statistics on disciplinary sanctions meted out to officers.	The Special Rapporteur has not received reports about the prosecution of members of the Nigerian Police Force on the grounds of torture or other ill-treatment.
(n) Victims of torture and ill-treatment should receive substantial **compensation** proportionate to the gravity of the physical and mental harm suffered, as well as adequate medical treatment and rehabilitation	No information was provided by the Government on payment of compensation to victims.	***Non-governmental sources****: In some cases, courts have awarded compensation to be paid to victims of torture. However, the ordered payments are still pending.*
(o) The declaration should be made with respect to article 22 of the Convention against Torture	No declaration had been made under article 22.	No declaration has been made under article 22.

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the provisions of the Convention		
Conditions of detention		
(p) The **release** of non-violent offenders **from confinement in pretrial detention** facilities should be expedited, beginning especially with the most vulnerable groups, such as children and the elderly, and those requiring medical treatment subject to non-custodial measures (i.e. guarantees to appear for trial, at any other stage of the judicial proceeding and, should occasion arise, for execution of the judgement)		***Non-governmental sources**: The Federal Ministry of Justice has embarked on a prison "decongestion" scheme; however, so far no tangible results in terms of numbers of people held in pretrial detention has been achieved. There is a policy in place focusing especially on the release of members of vulnerable groups.* *Several states have commuted sentences or released detainees under amnesties, however this is not done as a matter of routine or in any coordinated way across the federation. It is dependent on the mercy committees of individual states and the benevolence of the state governor* .
(q) **Pretrial detainees and convicted prisoners** should be **strictly separated**	There was no strict separation of pretrial and convicted prisoners.	***Non-governmental sources**: In most cases the two categories are not strictly separated.*
(r) Detainees **under 18 should** be separated from adult ones	There was no strict separation of juveniles and adults.	***Non-governmental sources**: Detainees under 18 are not routinely separated from adults.*
(s) **Females should** be separated from male detainees	Males and females were separated in most cases.	Females are overwhelmingly separated from male detainees.
(t) The Criminal Procedure Code should be amended to ensure that the automatic recourse to **pretrial detention**, which is the current de facto general practice, is authorized by a judge strictly	Pretrial detention was ordered by default.	The Criminal Procedure Code of Lagos State has been amended; Ogun State is reviewing its Criminal Procedure Code with a view to amend it; other states have begun preliminary reviews of

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
as a measure of last resort, and the use of non-custodial measures, such as bail and recognizance, are increased for non-violent, minor or less serious offences		their criminal procedure codes.
Corporal punishment		
(u) Abolish all forms of **corporal punishment**, including sharia-based punishments	Corporal punishment, such as caning, and sharia-based penal code punishments in the northern states (i.e. amputation, flogging and stoning to death), were lawful in Nigeria.	***Non-governmental sources****: Sharia-based punishments remain on the statute books.*
Capital punishment		
(v) Abolish the **death penalty** de jure, commute the sentences of prisoners on **death row to imprisonment**, and release those aged over 60 who have been on death row for 10 years or more	• Capital punishment was still available under the laws of Nigeria, but there was a policy not to carry out executions. However, persons continued to be sentenced to death, which led to the steady growth in numbers of persons languishing on death row for many years in inhuman conditions • By letter dated 14 September 2007 the Government stated that it had, as part of the decongestion process, released all prisoners over 60 and 70 years old, as well as all prisoners on death row who had served for more than 10 years.	• ***Non-governmental sources****: No action has been taken to abolish the death penalty* • *Despite the federal announcement, no substantial number of detainees has been released*
Violence against women		
(w) Establish effective mechanisms to enforce the prohibition of **violence against women** including traditional practices, such as FGM, and continue awareness-raising campaigns to eradicate such practices, and expedite the adoption of the Violence against Women Bill	A number of State laws prohibited discrimination against women in critical areas, such as female genital mutilation and early marriage. Despite such legislation, however, such practices persisted and enjoyed social acceptance. No effective mechanisms to enforce existing prohibitions were in place.	***Non-governmental sources****: Several states have passed bills prohibiting domestic violence, including Lagos, Cross Rivers Ebonyi and Jigawa states. CEDAW is yet to be incorporated; however, the Federal Ministry of Women Affairs is working with a coalition of NGOs to re-present the CEDAW Domestication Bill to the National Assembly. Women remain*

Recommendation (A/HRC/7/3/Add.4)	**Situation during visit** (A/HRC/7/3/Add.4)	**Steps taken to implement the recommendations**
		frequent victims of discrimination and ill-treatment.
Prevention		
(x) Security personnel shall undergo extensive and thorough training using a curriculum that incorporates **human rights education** throughout and that includes training in effective interrogation techniques and the proper use of policing equipment, and that existing personnel receive continuing education		***Non-governmental sources**: Human rights education has not been incorporated in security personnel training, however, some human rights training is offered to senior personnel. Some interrogation techniques training is provided, but the extreme lack of investigative equipment and facilities risks rendering any training obsolete.*
(y) Security personnel recommended for United Nations, as well as regional, **peacekeeping operations** should be scrupulously vetted for their suitability to serve		***Non-governmental sources**: There is no awareness of vetting procedures for security personnel recommnded for United Nations or regiona, peacekeeping operations.*
(z) The **Optional Protocol** to the Convention against Torture should be ratified, and a truly independent monitoring mechanism should be established - where the members of the visiting commissions would be appointed for a fixed period of time and not subject to dismissal - to carry out unannounced visits to all places where persons are deprived of their liberty throughout the country, to conduct private interviews with detainees and subject them to independent medical examinations	There was no regular or systematic mechanism or activities related to independent visits to detention facilities.	***Non-governmental sources**: The Optional Protocol to the Convention against Torture has not been ratified and no independent monitoring mechanism has been established. Committees of the National Assembly who have statutory oversight responsibility, but fall short of the requirements stipulated in the Optional Protocol, do not fulfil their task to ensure that conditions and treatment in places of detention are in accordance with international requirements.*
(aa) Systematic training programmes and **awareness-raising campaigns** be carried out on the principles of the Convention against Torture for the public at large, security personnel, legal professionals and the judiciary	No such campaigns existed.	***Non-governmental sources**: There have been no such programmes or campaigns.*

Togo

Suivi des recommandations du Rapporteur spécial faites dans le rapport de mission au Togo en avril 2007 (A/HRC/7/3/Add.5)

28. Par lettre datée du 29 janvier 2009, le Gouvernement a fourni des informations détaillées concernant les mesures prises en application des recommandations du Rapporteur spécial (voire tableau ci-dessous).

29. Le Rapporteur spécial a noté avec satisfaction que les élections d'octobre 2007 se sont déroulées dans le calme, ce qu'il considère comme une étape importante dans un pays où les élections précédentes avaient été éclipsées par des actes de violence de grande ampleur et de graves violations des droits de l'homme, y compris des actes de torture. Il se félicite de la récente adoption du projet de loi visant l'abolition de la peine de mort par le conseil des ministres et invite l'Assemblée nationale à entériner cette décision. Le Rapporteur spécial salue les étapes franchies vers la mise en place de la commission vérité, justice et réconciliation et espère que cette commission commencera rapidement son travail et mettra fin à l'impunité qui règne actuellement à l'égard de graves violations des droits de l'homme commises par le passé au Togo tout en rappelant l'importance de la mises en place dans les lieux de détention des mécanismes de plainte efficaces.

30. Le Rapporteur spécial note le travail important de la CNDH (en coopération avec le bureau du HCDH au Togo), notamment les sessions de formation avec les magistrats et officiers de police judiciaire au sujet de l'interdiction et la prévention de la torture et de l'application de la détention préventive (article 112 du Code de procédure pénale), les audiences foraines, ainsi que les visites des prisons qui ont abouti à la libération de centaines de détenus. Il applaudit les initiatives du parquet et d'autres organes étatiques en matière d'inspection des lieux de détention et rappelle à cet égard l'importance d'envisager la ratification du Protocole facultatif à la convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, qui prévoit l'établissement d'un mécanisme national de prévention mandaté d'effectuer des visites inopinées dans tous les lieux de détention. Concernant les conditions de détention dans les institutions pénitentiaires, il note la réhabilitation des prisons en cours appuyée par l'Union européenne et le décret portant la création d'un corps surveillant les établissements pénitentiaires, récemment adopté par le conseil des ministres. A cet égard, il souligne également l'importance des mesures de substitution à l'emprisonnement et salue la révision du Code pénal en cours qui, selon le Gouvernement, prévoit l'introduction des peines alternatives non privatives de liberté pour les infractions mineures et érigera la torture en infraction pénale. Dans ce contexte, il invite le Gouvernement à accélérer la révision du Code de procédure pénale et à interdire explicitement l'utilisation des preuves obtenues sous torture dans toute procédure pénale.

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
93. Le Gouvernement togolais devrait ériger la torture en infraction pénale conformément à l'article 4 de la Convention contre la torture et selon la définition contenue dans son article premier, en fixant les peines appropriées.	La législation ne contenait aucune disposition définissant la torture et érigeant les actes de torture en infraction comme l'exige l'article 4 de la Convention contre la torture.	**Gouvernement** : Certains projets de textes, en particulier ceux qui visent à mettre en conformité le Code pénal avec les normes internationales relatives aux crimes de guerre, aux crimes contre l'humanité, à la torture, au terrorisme et à la criminalité internationale, ont été validés au cours d'un atelier national de validation les 24-26 novembre 2008 à Lomé et seront votés par l'Assemblée nationale.
94. Il devrait lutter contre l'impunité en mettant en place sur les lieux de détention des mécanismes d'examen des plaintes efficaces ouvrant la voie à une information pénale indépendante contre les auteurs d'actes de torture et de mauvais traitements et à la conduite d'office d'enquêtes approfondies sur les allégations de torture ou de mauvais traitements, et traduire en justice les auteurs d'actes de torture ou de mauvais traitements identifiés dans l'appendice.	• Aucune condamnation prononcée par un tribunal pénal pour des actes de torture ou des mauvais traitements infligés dans le passé. Absence de mécanismes, internes ou externes, d'examen des plaintes auxquels les victimes présumées de torture ou de mauvais traitements pourraient recourir • Existence d'une permanence téléphonique destinée aux victimes, rattachée au parquet, qui était opérationnelle, mais sur laquelle plus de précision n'était pas disponible	• **Gouvernement :** Une permanence téléphonique a été installée; tout détenu a le droit d'adresser un courrier confidentiel au Directeur de l'administration pénitentiaire ou au Procureur de la République pour dénoncer tout mauvais traitement.
95. Le Gouvernement devrait interdire expressément les châtiments corporels et mettre en place des mécanismes efficaces pour lutter contre ces pratiques.	Malgré l'interdiction dans l'article 376 du Code de l'enfant, dans les lieux de détentions les châtiments corporels semblaient être appliqués de manière régulière.	**Gouvernement** : Aucun texte de loi ni de mesures réglementaires n'autorisent l'usage du châtiment corporel.
96. En ce qui concerne les mineurs, le Rapporteur spécial réitère les recommandations formulées par le Comité des droits de l'enfant visant à ce que l'État prenne des mesures législatives et concrètes efficaces pour interdire l'application de châtiments corporels aux enfants et sensibiliser le public aux conséquences néfastes de cette pratique.	Les mineurs en détention sont particulièrement vulnérables de subir des châtiments corporels.	**Gouvernement** : Suite à la dénonciation du responsable de la Brigade des mineurs à cause de pratique de châtiment corporel contre les mineurs, ce dernier a été remplacé par une femme choisie à dessein pour ses aptitudes de protection des enfants.

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
97. Le Gouvernement devrait mettre en place des mécanismes pour faire respecter l'interdiction de la violence à l'encontre des femmes, y compris les pratiques traditionnelles comme les mutilations génitales, continuer d'organiser des campagnes de sensibilisation, et faire une étude pour évaluer la prévalence des mutilations génitales au Togo.	La pratique de la mutilation générale persistait et continuait d'être acceptée par la société, et les mécanismes pour faire respecter son interdiction étaient quasiment inexistants. Le RS avait été informé d'une seule condamnation, prononcée en 1998, pour infraction à la loi no 98-106 de 1998.	• **Gouvernement :** En 1999 le Ministre des affaires sociales de l'époque, a entrepris une campagne de sensibilisation à l'échelle nationale avec l'appui des bailleurs, notamment le Fonds des Nations Unies pour la population et l'UNICEF, suite à laquelle les organisations non-gouvernementales ont pris le relais. • Dette pratique n'est plus acceptée par la population. Le taux de prévalence des mutilations génitales au Togo est passé de 12 pourcent en 1996 à 6.9 pourcent en 2008 (rapport d'étude du Ministère de l'action sociale).
98. Le Gouvernement togolais devrait soutenir la Commission Nationale des Droits de l'Homme dans les efforts qu'elle déploie pour jouer un rôle de premier plan dans la lutte contre la torture et donner à ses membres et à son personnel les ressources nécessaires et la formation voulue pour qu'ils soient en mesure d'instruire les plaintes.		• **Gouvernement** : Le Comité international de coordination des institutions nationales (ICC) a décidé lors de sa 20^{ième} session du 14-18 avril 2008, d'accréditer la Commission nationale des droits de l'homme (CNDH) au statut A. Cela prouve que la CNDH remplit les exigences d'indépendance, d'efficacité et de crédibilité fixées par les Principes de Paris. • Les activités de la CNDH ont abouti à la libération de plus de 300 détenus préventifs dans les prisons du pays. Selon le Gouvernement, cette libération est le résultat de plusieurs actions réalisées par la CNDH, dont deux sont mentionnées ci-dessous: (1) Les audiences foraines organisées du 25 février au 7 mars 2008 avec l'appui

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
		du Bureau du Haut Commissariat des Nations Unies aux droits de l'homme (HCDH-OHCHR) au Togo par les tribunaux de Kévé (Préfecture de l'Avé) et de Kpalimé (Préfecture de Kloto) dont les détenus sont gardés à la prison civile de Lomé ont permis l'examen d'un nombre important de dossiers qui étaient en retard; (2) Dans le cadre des activités marquant le 60ème anniversaire de la Déclaration universelle des droits de l'homme, la CNDH avec l'appui du HCDH-OHCHR a organisé un atelier technique d'échange sur l'application du Code de procédure pénale et souligné la nécessité d'utiliser la détention préventive comme mesure exceptionnelle, tel que prévu par l'Art. 112. Cette disposition n'était pas appliquée dans la pratique jusqu'à maintenant, mais la détention préventive est plutôt devenue la règle. Non seulement l'atelier a permis aux magistrats de réexaminer les modalités d'application, il a aussi été suivi par une visite des prisons par un groupe composé de membres de la CNDH et de magistrats de chaque ressort. Un certain nombre de lacunes procédurales ayant été constatées, les personnes irrégulièrement détenues furent libérées.
99. Le Gouvernement devrait améliorer les garanties contre la torture existantes en introduisant une procédure efficace d'habeas corpus, faire respecter les garanties comme le	Un fort pourcentage de détenus étaient maintenus en garde à vue au-delà de la durée maximale légale de quatre-vingt-seize heures que le ministère public peut autoriser, dont	**Gouvernement** : Depuis novembre 2007, le Programme nationale de modernisation de la justice a organisé plusieurs ateliers de renforcement des capacités des officiers de

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
délai de quarante-huit heures pour la garde à vue dans les locaux de la police ou de la gendarmerie, veiller à ce que tout détenu fasse l'objet d'un examen médical indépendant après son arrestation et après tout transfèrement, faire en sorte que la famille du détenu soit rapidement informée de son arrestation, et mettre en place un système d'aide juridictionnelle pour les personnes accusées d'infractions graves.	certains jusqu'à deux semaines. Aucun examen médical n'était effectué après l'arrestation ou le transfert d'une personne. Aucun système d'aide juridictionnelle n'était en place.	police judiciaire afin de les aider à mieux accomplir leur mission. 140 officiers de police judiciaire ont déjà profité des ces formations. • Le Rapporteur spécial n'a pas reçu d'informations quant à l'introduction d'une procédure habeas corpus et la mise en place d'un système d'aide juridictionnelle.
100. Le Gouvernement devrait faire en sorte que les personnes placées en détention préventive comparaissent rapidement devant un juge et soient informées en tout temps de leurs droits et de l'état d'avancement de leur affaire, fixer des limites à la durée de la détention préventive et veiller à ce que ces délais soient respectés en organisant périodiquement des inspections indépendantes.	Dans de nombreux cas, la durée maximale de la garde à vue dans les postes de police ou de gendarmerie (quarante-huit ou quatre-vingt-seize heures) était expirée et qu'elle n'avait pas été prolongée par le ministère public comme la loi l'exige. Cela signifiait que de nombreux détenus passent de longues périodes dans des conditions épouvantables sans aucun fondement juridique; De nombreux prisonniers en détention avant jugement ont déclaré qu'ils n'avaient pas été présentés à un juge ou un procureur même après plusieurs semaines ou mois de détention. Beaucoup ne connaissaient pas l'état de leur affaire même s'ils étaient détenus depuis longtemps.	• **Gouvernement** : Des mesures ont été prises pour améliorer la prise en charge judicaire des détenus et les conditions de détention. Les procureurs de la République et les juges d'instruction font des visites périodiques et inopinées dans les centres de détention (commissariats, brigades de gendarmerie et prisons). De plus, le Programme nationale de modernisation de la justice prévoit que l'effectif des magistrats sera augmenté de 25 personnes chaque année (concours de recrutement) sur les cinq prochaines années. Les magistrats en fonction suivent des formations continues dans le cadre du Programme nationale de modernisation de la justice. • En outre, la révision du Code de procédure pénale est en cours (voir recommandation 93). La réhabilitation des prisons est faite (appui de l'Union européenne) et celle des infrastructures juridictionnelles est en cours (appui de l'Union européenne) en vue de

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
		permettre, entre autre, la tenue régulière et en temps réel des audiences pénales.
101. Le Gouvernement devrait modifier la législation de sorte qu'aucune condamnation ne puisse reposer sur des preuves obtenues sous la torture et que les aveux ne constituent pas le motif principal des condamnations; il devrait d'ores et déjà donner aux tribunaux des directives claires à ce sujet.	• Souvent les aveux constituaient le principal élément de preuve. • Dans la plupart des locaux de garde à vue des mauvais traitements étaient infligés quotidiennement, essentiellement pour arracher des aveux.	**Gouvernement :** La révision du Code de procédure pénale est en cours. De plus, la Commission Nationale des Droits de l'Homme (CNDH), appuyée par le HCDH-OHCHR, organise des sessions de sensibilisation sur l'interdiction de la torture et des mauvais traitements et de renforcement des capacités des magistrats et des officiers de police judiciaire (OPJ).
102. Le Gouvernement togolais devrait faire passer les infractions mineures du champ de la justice répressive à celui de la justice réparatrice, élargir l'application des mesures de substitution à la détention préventive et des peines non privatives de liberté, rendre obligatoire le recours à des mesures non privatives de liberté à moins qu.il n'existe des raisons impérieuses de placer le prévenu en détention.		**Gouvernement :** La révision du Code pénal prévoit l'introduction des peines alternatives non privatives de liberté pour les infractions mineures.
103. Le Gouvernement togolais devrait poursuivre ses efforts en vue d'améliorer les conditions de détention, en particulier, fournir des soins médicaux, traiter les malades mentaux au lieu de les punir et prendre les mesures voulues pour les protéger de la torture et des mauvais traitements, améliorer la quantité de nourriture et la qualité, éventuellement en créant des fermes pénitentiaires où les détenus doivent cependant pouvoir être admis sans discrimination.	Les conditions de détention pendant la garde à vue dans les locaux de la police ou de la gendarmerie, mais aussi dans la plupart des établissements pénitentiaires, constituaient un traitement inhumain. En particulier, le surpeuplement de la plupart des prisons était dramatique, les conditions d'hygiène déplorables, la nourriture de mauvaise qualité et insuffisante et l'accès aux services médicaux difficile.	**Gouvernement** : La plupart des prisons viennent d'être réhabilitées et d'autres seront bientôt construites (appui Union Européenne) afin d'améliorer les conditions de détention. Par ailleurs, le Gouvernement a informé le Rapporteur spécial que l'Administration Pénitentiaire est en partenariat avec des ONGs internationales (par ex. « PRisonniers Sans Frontières »; « Santé pour l'Afrique » ») pour la prise en charge sanitaire des détenus. Des équipes médicales viennent périodiquement consulter les détenues et font des examens

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
		médicaux et mettent à leur disposition des médicaments. Le budget de la santé pénitentiaire a été sensiblement revu à la hausse dans la loi sur les finances dans l'année 2009.
104. Le Gouvernement devrait séparer les prisonniers en détention préventive des condamnés et former et déployer du personnel féminin dans les quartiers des prisons et les locaux de garde à vue réservés aux femmes.	Contrairement à ce qu'exigent les normes internationales minima, il n'y avait pas de personnel féminin dans les prisons ni dans les locaux de garde à vue de la police ou de la gendarmerie. Le Gouvernement avait indiqué que ce problème était en train d'être résolu avec la création d'un corps spécial de surveillants relevant du Ministère de la justice, qui comprendrait des surveillants des deux sexes.	**Gouvernement :** Un décret portant sur la création du corps des surveillants des établissements pénitentiaires a été adopté par le conseil des ministres le 14 janvier 2009. Le recrutement comprendra du personnel féminin.
105. Les autorités togolaises devraient faire en sorte que les détenus ne soient pas obliges de se déshabiller lorsqu'ils sont placés en garde à vue dans les locaux de la gendarmerie.	Une instruction spéciale de la gendarmerie visant à prévenir les suicides, étaient, par certains responsables, interprétée comme signifiant que les détenus devaient rester nus jour et nuit dans leur cellule. Or, d'après le Gouvernement, la gendarmerie n'avait jamais donné l'ordre de laisser nues les personnes en garde à vue.	**Gouvernement :** Depuis les recommandations formulées en avril 2007 par le Rapporteur spécial, les dispositions pratiques ont été prises par les autorités au niveau de la gendarmerie et de la police. En vertu de ces dispositions, les détenus sont dans leurs tenues lorsqu'ils sont en garde à vue au bureau en attendant les instructions. Lorsqu'ils doivent être internés dans la chambre de sureté, ils sont fouillés et débarrassés de tout objet pouvant leur permettre de se suicider. Ainsi, ils sont gardés en short de sport ou en culotte, mais jamais nus.
106. Le Gouvernement togolais devrait veiller à ce que le principe de non-discrimination soit respecté à tous les niveaux du système de justice pénale, lutter contre la corruption qui touche particulièrement les pauvres, les groupes vulnérables et les minorités, et prendre des mesures efficaces pour lutter contre la		**Gouvernement** : La lutte contre la corruption est un cheval de bataille actuel du Gouvernement; le projet de loi anti-corruption est en cours d'examen au conseil des ministres.

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
corruption des agents de l'État, mais également des hauts responsables de l'administration pénitentiaire.		
107. Le Gouvernement devrait préciser le statut de la gendarmerie et déterminer clairement les responsabilités de la gendarmerie et celles de la police, séparer les fonctions militaires et les fonctions de maintien de l'ordre, créer des chaînes de commandement claires dans les établissements pénitentiaires, et veiller à ce que dans les prisons le pouvoir soit détenu par les autorités et non par les hiérarques de la population carcérale.	• Manque de clarté dans le partage des responsabilités entre la police et la gendarmerie - en principe la gendarmerie opérait essentiellement dans les zones rurales, mais la distinction entre police et gendarmerie est devenue très floue et les deux intervenaient simultanément dans les mêmes zones (en particulier à Lomé). • Dans les prisons, le pouvoir était systématiquement délégué au « bureau interne » , c'est-à-dire aux détenus les plus hauts dans la hiérarchie de la prison, ce qui était nécessairement source de corruption, de violence entre détenus et de dépendance de certains détenus à l'égard de leurs codétenus.	**Gouvernement** : La loi No. 2007-010 du 1er mars 2007, délibéré et adopté par l'Assemblée nationale et promulgué par le Président de la République, fixe le statut général du personnel militaire des Forces Armées Togolaises duquel découle le statut particulier de la gendarmerie nationale. Ce statut fixe clairement et distinctement les missions et les responsabilités de la gendarmerie. Calqué sur le modèle français, la gendarmerie est un corps des Forces Armées Togolaises dont le ministère de la sécurité et de la protection civile dispose pour emploi notamment en maintien de l'ordre pour la sécurité. La gendarmerie opère en zone rurale. Les missions essentielles sont : les missions de police judicaire, missions de police administrative, missions militaires.
108. Le Gouvernement devrait améliorer la formation des forces de l'ordre et du personnel pénitentiaire et intégrer les droits de l'homme dans les programmes correspondants.	Le type de formation dispensé aux membres des forces de l'ordre semble aussi être excessivement militarisé, puisqu'il accorde beaucoup de place aux aptitudes militaires et peu à la préparation aux tâches complexes liées à l'enquête pénale ou au maintien de l'ordre.	• **Gouvernement** : Depuis le recrutement de 2005 dans le corps de la gendarmerie et de la police, le niveau minimum exigé est le Brevet d'Etudes du Premier Cycle (BEPC). Avec ce niveau de formation les recrues sont intellectuellement aptes pour comprendre et assimiler les cours et les notions sur les modules des droits de l'homme, le maintien de l'ordre avec des armes, les relations civilo-militaires, le droit international humanitaire (DIH), le droit relatif à la femme et à l'enfant.

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
		• Tous ces modules sont en vigueur dans les centres de formation, dans tous les stages des forces de l'ordre avec l'appui et l'assistance du système des Nations Unies et le Comité International de la Croix Rouge accrédités au Togo. • Les corps des gardiens de préfecture (GP), dont l'une des missions est la garde des prisons et la gestion des prisonniers, suivent les mêmes formations que les forces de sécurité. Les éléments de cette unité sont très bien imprégnés des mêmes modules.
109. Le Gouvernement togolais devrait ratifier le Protocole facultatif se rapportant à la Convention contre la torture et créer des mécanismes nationaux en mesure d'effectuer des visites inopinées dans tous les lieux de détention.		**Gouvernement** : En juin 2008, un projet de loi autorisant la ratification de l'OPCAT a été adopté par le Conseil des Ministres et a été soumis à l'Assemblée nationale en vue de son adoption.
110. S'agissant des mineurs, le Togo devrait sans tarder prendre des mesures pour que la privation de liberté ne soit utilisée qu'en dernier recours, pour la durée la plus courte possible et dans des conditions appropriées.	Le Togo ne disposait pas d'un système de justice pour mineurs compatible avec les dispositions et principes de la Convention relative aux droits de l'enfant, ce qui signifie qu'il n'y avait pratiquement pas d'alternative à la détention pour les mineurs en conflit avec la loi et qu'il n'existait aucune mesure de protection particulière à l'égard des personnes de moins de 18 ans.	**Gouvernement** : En 2007, le ministère de la justice a commandé une étude sur l'état de la justice des mineurs au Togo dont les recommandations serviront à formuler un programme de prise en compte de la justice pour mineurs. Ce programme complétera le Programme nationale de modernisation de la justice. De plus, dans la nouvelle organisation judiciaire, le juge des enfants et les tribunaux pour enfants seront décentralisés et existeront au niveau de chaque région.
111. Plutôt que d'être placés en détention, les enfants orphelins ou marginalisés, comme les enfants victimes de la traite ou les enfants des	Souvent les mineurs, et quelquefois même les jeunes enfants, étaient placés en détention au lieu d'être confiés aux services sociaux. À la	• **Gouvernement :** Des brigades pour mineurs ont été érigées au niveau de chaque région.

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
rues, devraient être confiés à des institutions ne relevant pas du système de justice pénale.	brigade des mineurs de Lomé, par exemple, des enfants abandonnés, victimes de la traite et marginalisés, dont certains âgés de moins de 10 ans, étaient détenus avec de jeunes adultes délinquants.	• Le Code de l'enfant a été adopté et promulgué le 6 juillet 2007.
112. Le Gouvernement devrait mettre en place un système de justice pénale au sein duquel exerceraient des policiers, des procureurs et des juges dûment formés, et créer toutes les garanties utiles, notamment l'aide juridictionnelle.		**Gouvernement** : La formation continue des magistrats, des OPJ (gendarmes et policiers) qui se fait déjà, est rendue systématique par le Programme nationale de modernisation de la justice.
113. Le Togo devrait abolir la peine de mort.	Le Code pénal togolais (articles 17, 45, 222, 223, 233 et 234) prévoyait la peine de mort pour un certain nombre d'infractions. Le Togo était abolitionniste dans la pratique et l'abolition de jure de la peine de mort était envisagée dans le cadre des réformes législatives en cours.	Le projet de la loi visant l'abolition de la peine de mort a été adopté par le conseil des ministres le 10 décembre 2008 et sera voté par l'Assemblée nationale.
115. Les tribunaux devraient sans délai se prononcer sur les plaintes pour actes de torture, mauvais traitements ou autres violations des droits de l'homme infligés lors des élections de 2005 et d'élections antérieures, et poursuivre les responsables.	Une impunité entourait les actes de violence politique perpétrés au fil des années depuis 1958 et, en particulier, les événements liés aux élections de 2005.	• **Gouvernement** : En 2007, un ministère délégué à la Présidence chargé de la réconciliation et des institutions ad hoc a été créé afin de résoudre le problème de l'impunité. • Ce département ministériel est chargé de mettre en place deux commissions, la commission chargée de promouvoir les mesures susceptibles de favoriser le pardon et la réconciliation nationale et la commission chargée de faire la lumière sur les actes de violence à caractère politique commis par le passé. • Un ensemble de plus de 100 victimes de violations de droits de l'homme commises

Recommandation (A/HRC/7/3/Add.5)	**Situation pendant la visite** (A/HRC/7/3/Add.5)	**Mesures prises depuis la visite**
		pendant les élections présidentielles de 2005 ont déposé des plaintes au cours de l'année 2008. Les autorités ont déclaré publiquement leur volonté d'en finir avec l'impunité, mais aucun examen des plaintes ne semble avoir été fait. • En vue de régler définitivement la question de l'impunité le Gouvernement a initié, en avril 2008, des consultations nationales pour la mise en place de la commission vérité, justice et transition. Un rapport extensif avec des recommandations a été publié en juillet 2008. • En janvier 2009, le Togo est actuellement à l'étape de la mise en place de la commission vérité, justice et réconciliation. Le projet de décret portant création du comité d'appui à la mise en œuvre des recommandations issues des consultations nationales est à l'étude au niveau du Gouvernement aux fins de son adoption par le conseil des ministres. Ce comité procédera à l'élaboration du texte portant création de la commission vérité, justice et réconciliation.

Annex I

GUIDELINES FOR THE SUBMISSION OF INFORMATION ON THE FOLLOW-UP TO THE COUNTRY VISITS OF THE SPECIAL RAPPORTUER ON THE QUESTION OF TORTURE

1. Follow-up is a key-element in ensuring the effectiveness of recommendations of Special Procedure mechanisms. In this context, all Governments are urged to enter into a constructive dialogue with the Special Rapporteur on torture with respect to the follow-up to his recommendations, so as to enable him to fulfil his mandate more effectively.

2. To obtain a comprehensive picture, the Special Rapporteur welcomes written information from international, regional, national and local organizations regarding follow up measures. The Special Rapporteur encourages information submitted through national coalitions or committees.

3. A summary of the content of the submissions from non-State sources is integrated in the follow-up table, which is then forwarded to the concerned State for its input and comments. In particular, States are requested to provide information on the consideration given to the recommendations, the steps taken to implement them, and any constraints which may prevent their implementation.

4. For a given country visit report, written information regarding follow-up measures to each of the recommendations should be submitted to the Office of the High Commissioner for Human Rights. Submissions should not exceed 10 pages in length.

5. The Special Rapporteur will include summaries of the written information submitted to him in the addenda on the follow-up to country visits of the report to the Human Rights Council.

Country visit report		Previous follow-up information reported
China	E/CN.4/2006/6/Add.6	A/HRC/4/33/Add.2; A/HRC/7/3/Add.2
Georgia	E/CN.4/2006/6/Add.3	A/HRC/4/33/Add.2; A/HRC/7/3/Add.2
Jordan	A/HRC/4/33/Add.3	A/HRC/7/3/Add.2
Mongolia	E/CN.4/2006/6/Add.4	
Nepal	E/CN.4/2006/6/Add.5	A/HRC/4/33/Add.2; A/HRC/7/3/Add.2
Nigeria	A/HRC/7/3/Add.4	
Paraguay	A/HRC/7/3/Add.3	
Togo	A/HRC/7/3/Add.5	

Annex 2

STATISTICAL INFORMATION ON GEORGIA

Table 1

Number of Inmates in the Establishments of the Department of Prisons of the Ministry of Justice of Georgia as for 26 January 2009 (Decree No. 24 of the Minister of Justice of Georgia)

N	Establishment	Official Limits
1.	Common and Strict Regime Institution (Rustavi) No 1	2 380
2.	Common and Strict Regime Institution (Rustavi) No 2	2 744
3.	Common and Jail Regime Institution for Women and Juvenile No 5	970
4.	Common, Strict and Jail Regime Institution (Ksani) No 7	1 600
5.	Common and Strict Regime Institution (Geguti) No 8	2 500
6.	Common and Strict Regime Institution (Khoni) No 9	650
7.	Common and Strict Regime Institution No 10	370
8.	Juvenile Educational Institution	160
9.	Medical Attendance Institution for Tuberculosis Prisoners	540
10.	Medical Attendance Institution for Condemned Persons and Prisoners	250
11.	Prison No 1 (Tbilisi)	750
12.	Jail and Strict Regime Institution (Kutaisi) No 2	1 840
13.	Prison No 3 (Batumi)	557
14.	Prison No 4 (Zugdidi)	305
15.	Jail, Common and Strict Regime Institution (Rustavi) No 6	1 300
16.	Prison No 7 (Tbilisi)	108
17.	Prison No 8 (Tbilisi)	3 672
	Total	20 696

Table 2

#	Statistics obtained by PRI from Penitentiary Dept for October 1, 2008 Penitentiary Establishments	Capacity Limit	Total # September (Above official limit NB limits often out of date)
1	#1 Establishment Rustavi	1 846	2 064
2	#2 Establishment Rustavi	1 801	1 995
3	#5 Establishment Tbilisi	942	821 (including 2 women lifers)
4	#7 Establishment of Ksani (Mtskheta)	1 336	2 170
5	#8 Establishment of Geguti (Tskaltubo)	917	1 531
6	#9 Establishment Khoni	600	581
7	#10 Establishment (Tbilisi, Avchala)	370	285
8	Juvenile Educational establishment (Tbilisi)	160	200
9	Prison Hospital	314	243
10	TB establishment	537	510
11	Prison #1 (Tbilisi)	750	915
12	Prison #2 (Kutaisi)	1 840	1 874
13	Prison #3 (Batumi)	503	902
14	Prison #4 (Zugdidi)	305	413
15	Prison #6 (Rustavi)	830	1 608
16	Prison #7 (Tbilisi)	108	38
17	Prison #8 (Tbilisi, Gldani)	None set	3 779
18	Total	13 159	19 929

Table 3

Prison population in Georgia in 2005 - 2008 - the figures are based on official statistics of the Penitentiary Department

Number of prisoners	2005	2006	2007	1 October 2008
Overall prison population	8 895	15 423	18 310	19 929
Pretrial detainees	5 063	4 388	2 963	3 097
Convicted prisoners	3 832	11 035	15 347	16 832

Table 4

Use of pretrial detention vs. non-custodial alternatives

Pretrial measures	2006	% of total	2007	% of total	2008 (9 months)	% of total
Pretrial detention	10 367	58%	8 929	43.7%	5 651	44.9%
Bail	6 745	37.7%	11 241	55.1%	6 757	53.7%
Recognizance (personal guarantee)	760	4.3%	247	1.2%	168	1.4%
Supervision over a juvenile						
Supervision of a military serviceman						
House arrest						
Police supervision						
Total	17 872		20 417		12 576	

Source of the statistics: Supreme Court of Georgia www.supremecourt.ge

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