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Mr. Ambassador,

In my capacity as Rapporteur for Follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, I refer to the examination of the third periodic report of New Zealand at the 604th and 607th meetings (CAT/C/SR.604, 607) which were held on 11 and 12 May 2004, following which Conclusions and Recommendations (CAT/C/CR/32/4) were adopted and transmitted to your Permanent Mission.

In those Conclusions and Recommendations, the Committee requested New Zealand to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 6 (b), (c), (d) and (h). This is part of the Committee's Follow-up Procedure concerning country conclusions which focuses on issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

Noting that the information sought by the Committee has been provided, I am writing to thank you for your Government's communications (of 9 June 2005 and 19 December 2006) concerning the conclusions and recommendations (CAT/C/CR/32/4/RESP. 1 and CAT/C/NZL/CO/3/Add. 2). The Committee appreciates the substantial information provided in your reply. Particularly noteworthy was the notification of several new legislative acts on matters of concern.

To complete the follow up procedure, I would be grateful for clarification of the matters below concerning the implementation of the Convention in New Zealand, as an analysis of the information submitted leaves some questions.

In response to the concerns expressed in paragraph 6 (b), the Government's assurances that it recognizes the importance of respecting human rights in all security and counter-terrorism efforts are appreciated. Your reply indicates that immigration officers have discretionary powers to detain or release non-nationals arriving at the borders, including those claiming refugee status, and also that administrative and judicial review of detention of refugees begins only after 28 days following the initial decision to detain. We would appreciate your clarification of the safeguards that exist to ensure that each detained would-be immigrant or refugee is not subjected to any breach of the Convention. During this initial 28-day period, what access do such persons have to a lawyer and an independent medical examination, and from what point following the immigration officer's decision?

H.E. Mr. Don Mackay
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Regarding review of the legislation on the security risk certificate, and ensuring that appeals can effectively be made against decisions to detain, remove, or deport a person, and ensure full respect of article 3 of the Convention, all cited in recommendation 6 (c), we are grateful to learn from you that the concerns raised by the Committee are in fact part of the review of legislation in progress. We look forward to receiving any further information as to its final status.

Thank you for the information provided concerning the recommendation in paragraph 6 (d), on non-voluntary segregation of detainees which describes important legislation enshrining the UN Standard Minimum Rules, limiting the purposes for which non-voluntary segregation can be ordered, and increasing independent oversight.

Also, with regard to the response to the concern of the Ombudsman regarding investigations of assaults by prison staff on inmates, thank you for providing information about the actions taken [as requested in paragraph 6(h)], including "a more robust regional tracking and monitoring regime for complaints," and the installation of video cameras. Has anyone been disciplined or otherwise held accountable in connection with the alleged assaults? Has there been an official inquiry or report into the matters identified by the Ombudsman, and if so, could you provide us with a copy?

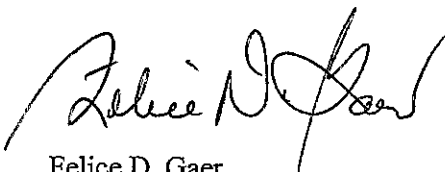
Finally, with regard to the comments contained in CAT/C/NZL/CO/3/Add.2, (8 February 2007) in which the Government clarifies its position regarding the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention relating to the Reduction of Statelessness, the Committee notes the State Party's correction, and the confirmation that it is currently "working toward accession" to the 1961 Convention.

Your government claims the Committee's decision to "welcome the ...willingness to ratify" the conventions was "misleading." The Committee was aware, at the time of the adoption of the Conclusions, that the State party had requested relevant Government departments to work through the issues related to accession and implementation. Further, on 2 October 2003, the New Zealand delegate had confirmed, at the 54th UNHCR Executive Committee meeting in Geneva that New Zealand was in the process of "working towards" ratification of the Convention on the Reduction of Statelessness. As such action was publicly announced, and could help prevent the risk of detention for lack of status for stateless persons, the Committee viewed this as a positive development. If we were too positive with our welcome expressing encouragement of the stated policy of the Government, by calling it a "willingness to ratify," then we regret this. But the Committee's conclusion was in no way intended to be misleading. Rather, it was aimed, like all CAT observations and recommendations, to advance the preventive aims of the Convention, and to encourage measures that could prevent situations where individuals face a risk of ill-treatment or torture.

The Rapporteur on Follow up is pleased to learn that The Minister of Foreign Affairs deposited an instrument of accession to the 1961 Convention on 20 September 2006.

Upon receipt of your reply with additional information as requested above, the Committee will be able to assess whether further action may be required. The Committee looks forward to pursuing the constructive dialogue it has stated with the authorities of New Zealand on the implementation of the Convention, and in this context to receive additional follow up information .

Accept, Mr. Ambassador, the assurances of my highest consideration.



Felice D. Gaer
Rapporteur for Follow-up on Conclusions and Recommendations
Committee against Torture