



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: Follow-up/CAT

8 December 2014

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the initial report of Mozambique (CAT/C/MOZ/1) by this Committee, at its 51st session, held from 28 October to 22 November 2013. At the end of that session, the Committee's concluding observations (CAT/C/MOZ/CO/1) were transmitted to your Permanent Mission. In paragraph 33 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 22 November 2014, further information regarding areas of particular concern identified by the Committee in paragraphs 8, 9, 18 and 20 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's concluding observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Mozambique on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Jens Modvig
Rapporteur for Follow-up on Concluding Observations
Committee against Torture

H.E. Mr. Pedro Comissário
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Mozambique
to the United Nations Office at Geneva

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/MOZ/CO/1)

MOZAMBIQUE

(...)

C. Principal subjects of concern and recommendations

(...)

Fundamental legal safeguards

8. The Committee notes with concern that arrested and detained persons are not always afforded all fundamental legal safeguards from the very outset of their deprivation of liberty. According to information before the Committee, arrested and detained persons are often not adequately informed about their rights and are frequently denied access to a lawyer. In addition, detainees are not given a medical examination upon arrival at police stations and the police fail to bring suspects before a judge within 48 hours of arrest. The information also documents instances of arbitrary arrest and detention, especially of disadvantaged people — young, unemployed or self-employed men in particular. The Committee is also concerned at the fact that contracted legal aid lawyers who work alongside salaried staff at the Instituto de Patrocínio e Assistência Jurídica (Institute for Legal Representation and Assistance) charge a fee for their services, as the delegation confirmed during its dialogue with the Committee (art. 2).

The State party should take effective measures to ensure that, in law and in practice, persons who are arrested have the benefit of all fundamental legal safeguards from the very outset of their deprivation of liberty. These safeguards include the right to be informed of the reasons for their arrest, access to a lawyer, the right to contact family members or other persons of their choice, the right to have an independent medical examination performed without delay and the right to be brought before a judge within 48 hours of arrest. The State party should also take the necessary measures to provide an effective free legal aid system, especially for indigent criminal suspects.

Extrajudicial executions and excessive use of force

9. The Committee is gravely concerned about allegations of unlawful killings, including extrajudicial executions, by members of the police during the period under review. It is also concerned at allegations that the police resort to excessive and

sometimes lethal force, especially when apprehending suspects and controlling demonstrations. While noting the information provided by the State party on several highly publicized cases, such as the *Costa do Sol* case, the Committee regrets that it has not received additional information on investigations, prosecutions, convictions and sentences imposed in cases involving excessive use of force and extrajudicial executions that took place during the period under review (arts. 2, 12 and 16).

The State party should take steps to investigate promptly, effectively and impartially all allegations of the involvement of members of law enforcement agencies in extrajudicial executions and other unlawful killings. It should also investigate without delay allegations of instances of excessive use of force, especially lethal force, by members of the police, bring those responsible for such acts to justice and provide the victims with redress.

The Committee urges the State party to implement effective measures to prevent law enforcement officers from committing acts such as extrajudicial killings and using excessive force by ensuring that they comply with the Convention, the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). The provisions of these instruments should be integrated into the new Police Disciplinary Regulation. In particular, the State party should provide adequate training for its law enforcement officials, who should receive clear instructions on the use of force and firearms in line with international standards, and be informed of the liabilities they incur if they make unnecessary or excessive use of force.

(...)

Prompt, thorough and impartial investigations

18. The Committee expresses concern at reports of persistent impunity for police officers and prison officials who torture or ill-treat arrested and detained persons. The Committee notes that, according to the information provided by the State party's delegation, 50 cases of torture reached the sentencing stage during the period under review, with sentences ranging between 6 months' and 27 years' imprisonment. Nonetheless, the State party was unable to provide comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment (arts. 2, 11, 12, 13 and 16).

The State party should:

- (a) **Take appropriate measures to ensure that all allegations of torture or ill-treatment are promptly, thoroughly and impartially investigated, perpetrators are duly prosecuted and, if found guilty, sentenced to penalties that take into account the grave nature of their acts;**
- (b) **Ensure that investigations into allegations of torture or ill-treatment are conducted by an independent body that is not under the authority of the police;**

- (c) Establish an independent complaints system for all persons deprived of their liberty; and
- (d) Unambiguously reaffirm the absolute prohibition of torture, publicly condemn practices of torture and issue a clear warning that anyone committing such acts or otherwise complicit or participating in torture will be held personally responsible before the law for those acts and will be subject to criminal prosecution and appropriate penalties.

(...)

Redress, including compensation and rehabilitation

20. While noting the content of article 58 of the Constitution (Right to compensation and State responsibility) and the existence of several institutional mechanisms to claim redress for human rights violations, the Committee is concerned at reports that victims of torture and ill-treatment hardly ever receive redress, including adequate compensation and rehabilitation. In this regard, the Committee regrets that the State party provided insufficient information on redress and compensation measures, including means of rehabilitation, that have been ordered by the courts or other State bodies and actually provided to victims of torture or their families since the entry into force of the Convention in the State party (art. 14).

The State party should take the necessary steps to ensure that victims of torture and ill-treatment receive redress, including fair and adequate compensation and the means for as full a rehabilitation as possible. The Committee draws the State party's attention to its general comment No. 3 (2012) on the implementation of article 14 by States parties, in which it elaborates on the nature and scope of States parties' obligations to provide full redress to victims of torture.

(...)

33. The Committee requests the State party to provide, by 22 November 2014, follow-up information in response to the Committee's recommendations related to (a) ensuring or strengthening legal safeguards for persons in detention; (b) conducting prompt, impartial and effective investigations into cases of the involvement of members of law enforcement agencies in extrajudicial executions and other unlawful killings; and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraphs 8, 9 and 18 of the present concluding observations. In addition, the Committee requests follow-up information on remedies and redress to the victims of torture and ill-treatment, as contained in paragraph 20 of the present concluding observations.

(...)