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REFERENCE: cc/jnmf/fg/follow-up/CAT

12 November 2009

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 second periodic report of Costa Rica (CAT/C/CRI/2) by this Committee, at its 40th session, from 28 April - 16 May 2008. At the end of that session, the Committee's Concluding Observations (CAT/C/CRI/CO/2) were transmitted to your Permanent Mission. In paragraph 29 of those Concluding Observations, the Committee asked, pursuant to its rules of procedures, that Costa Rica provide, within one year (by May 2009) further information regarding areas of particular concern identified by the Committee in paragraphs 5, 6, 7, 10 and 12 (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. 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 Costa Rica on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Excellency, the assurances of my highest consideration.

Handwritten signature of Felice D. Gaer in black ink.

Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations
Committee against Torture

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**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/CRI/CO/2)

COSTA RICA

(...)

C. Principal subjects concerns and recommendations

(...)

Alternative measures

6. The Committee is concerned at the increase in the prison population and the factors that have contributed to this situation - in particular the limited use of alternative measures, longer prison terms, the criminalization of certain behaviour and the use of pretrial detention as a preventive measure (art. 2).

The Committee takes note of the bill introducing a new Criminal Code which will incorporate alternative measures, and urges the State party to speed up the reforms needed to enable the judiciary to impose alternatives to imprisonment.

Non-return

7. The Committee notes with concern that the Migration Bill makes no mention of a right to appeal against the decisions of the Visa and Refuge Commission. The Committee is also concerned at the power which the Migration Bill grants to immigration officials to reject illegal immigrants within a radius of 50 kilometres from the border (with no administrative remedy against such decisions), a power which could affect the principle of *non-refoulement* laid down in article 3 of the Convention, as well as the protection of victims of trafficking (art. 3).

The State party should take steps to ensure that, in the context of migration management, a proper analysis can be conducted of the situation in each case and the situation in the countries from which the “immigrants” come, so as to guarantee respect for the principle of *non-refoulement*. These steps should include appropriate continuing training of migration officials.

(...)

Detention of non-citizens

10. The Committee expresses concern at the failure to limit the length of administrative detention of aliens. The Committee takes note of the efforts made by the State party to improve conditions in the Detention Centre for aliens, and the plans

to modernize the regional offices and border posts so as to provide suitable conditions for immigrants. However, the conditions in the centres for immigrants remain a matter for concern, especially as regards overcrowding and the lack of procedures or machinery for identifying victims of trafficking in persons and others who are entitled to international protection (arts. 2, 3 and 11).

The State party should ensure that legislation provides for alternatives to custody for migrants. The State party should also set a maximum legal period for detention pending deportation, which should in no circumstances be indefinite. The Committee invites the State party to continue its efforts to improve detention conditions for all immigrants, in cases where administrative detention is absolutely necessary, in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Minimum Rules for the Treatment of Prisoners. The Committee recommends the adoption of protocols and the provision of proper training for border officials and personnel working in centres for the administrative detention of aliens for the identification of victims of trafficking and others who are entitled to international protection.

(...)

Complaints, investigations and proper convictions

12. The Committee notes with satisfaction the cases where the Convention has been directly applied by domestic courts. However, the Committee notes that only one complaint of torture has been registered and that no convictions have been handed down for torture since the new law entered into force. The Committee notes with concern that some possible cases of torture have been investigated as abuses of authority despite their gravity. It also notes with concern reports that victims and witnesses are not provided with adequate protection (arts. 2, 11 and 13).

The State party should ensure that legislation on torture is effectively applied and that all those involved, especially police officers and prison staff, border guards, medical personnel and judicial personnel, receive proper training in the new legislation. Detainees should also be given information on the Convention and domestic legislation and on the rules and guidelines for police officers and prison personnel relating to torture. The Committee welcomes the bill on victim and witness protection and urges the State party to ensure that the victims and witnesses of serious human rights violations are provided with proper protection as soon as possible.

(...)

29. The State party is requested to communicate to the Committee within one year its reply to the recommendations made in paragraphs 5, 6, 7, 10 and 12 of the present concluding observations.

(...)
