



Téléfax: (41-22) 917 90 22
Télégrammes: UNATIONS, GENEVE
Télex: 41 29 62
Téléphone: (41-22) 917 91.39
Internet www.ohchr.org
Email: mmorales@ohchr.org



Palais des Nations
CH-1211 GENEVE 10

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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, allow me to refer to the examination of the initial report of South Africa (CAT/C/52/Add.3) by this Committee at its 37th session, from 6 to 24 November 2006. At the end of that session, the Committee's Conclusions and Recommendations (CAT/C/ZAF/CO/1) were transmitted to your Permanent Mission. In paragraph 29 of those Conclusions and Recommendations, the Committee asked, pursuant to its rules of procedures, that South Africa provide, within one year (by November 2007) further information regarding areas of particular concern identified by the Committee in paragraphs 15, 16, 21, 23, 27 and 28 (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 Conclusions and Recommendations. 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 started with the authorities of South Africa on the implementation of the Convention. In this context, the Committee looks forward to receiving your response to this enquiry.

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

A handwritten signature in cursive script, reading "Felice D. Gaer".

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

H. E. Mme Glaudine J. Mtshali
Ambassadeur extraordinaire et plénipotentiaire
Mission Permanente de l'Afrique du Sud auprès de l'Office des Nations Unies et des autres organisations
internationales à Genève
65, Rue du Rhône
1204 Genève

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

Conclusions and recommendations of the Committee against Torture
(Extracts for follow-up)

SOUTH AFRICA

(...)

C. Principal subjects concerns and recommendations

(...)

15. While acknowledging the jurisprudence of the Constitutional Court on this matter (*Mohamed and Another v. President of the Republic of South Africa and Others*, of 2001, and *S v. Makwanyane*, of 1995), the Committee is concerned by the return of persons by the State party to States where there are substantial grounds for believing that they would be in danger of being subjected to torture or sentenced to death (art. 3).

Under no circumstances should the State party expel, return or extradite a person to a State where there are substantial grounds for believing that this person would be in danger of being subjected to torture. When determining the applicability of its non-refoulement obligations under article 3 of the Convention, the State party should examine thoroughly the merits of each individual case, ensure that adequate judicial mechanisms for the review of the decision are in place and ensure effective post-return monitoring arrangements.

The State party should provide detailed information to the Committee on all cases of extradition, return or removal that are subject to receipt of assurances or guarantees and that have occurred since the entry into force of the Convention; what the minimum contents for such assurances or guarantees are; and what measures of subsequent monitoring it has undertaken in such cases. The State party should also provide the Committee with updated information regarding the cases of Mr. Rashid and Mr. Mohamed.

16. The Committee is concerned with the difficulties affecting documented and undocumented non-citizens detained under the immigration law and awaiting deportation in repatriation centres, who are unable to contest the validity of their detention or claim asylum or refugee status and without access to legal aid. The Committee is also concerned about allegations of ill-treatment, harassment and extortion of non-citizens by law enforcement personnel as well as with the absence of an oversight mechanism for those centres and with the lack of investigation of those allegations (arts. 2, 13 and 16).

The State party should take all necessary measures to prevent and combat ill-treatment of non-citizens detained in repatriation centres, especially in the Lindela Repatriation Centre, provide non-citizens with adequate information about their rights and the legal remedies available against any violation of these rights and continue to accelerate its measures to reduce the backlog of asylum applications.

Prompt, thorough and independent investigation of all allegations of ill-treatment of non-citizens should also be ensured and an effective monitoring mechanism should be established for those centres.

(...)

21. Noting the existence of legal-aid mechanisms, the Committee is concerned about the difficulties vulnerable persons or groups experience in efforts to exercise their right to complain, including for linguistic reasons, to obtain redress and fair and adequate compensation as victims of acts of torture. It is further concerned at the lack of awareness of the Convention's provisions by vulnerable groups (arts. 13 and 10).

The State party should take the necessary measures to strengthen legal-aid mechanisms for vulnerable persons or groups, ensuring that all victims of acts of torture may exercise their rights under the Convention and disseminate the Convention in all appropriate languages, in particular to groups made vulnerable.

(...)

23. The Committee is concerned about widespread acts of violence against women and children, especially rapes and domestic violence, and with the lack of an effective State policy to prevent and combat such violence (arts. 16 and 1).

The State party should adopt all necessary measures to prevent, combat and punish violence against women and children and reinforce its cooperation with civil society organizations in combating such violence. The State party should also undertake research into the root causes of the high incidence of rape and sexual violence so that effective preventive measures can be developed; establish awareness-raising campaigns; investigate thoroughly those grave human rights violations; and work towards a "no tolerance" policy.

(...)

27. The Committee requests the State party to provide in its next periodic report detailed disaggregated statistical data on complaints related to acts of torture, or cruel, inhuman or degrading treatment committed by law enforcement officials as well as of the investigations, prosecutions and convictions relating to such acts, including with regard to the abuses reportedly committed by South African peacekeepers. It further requests the State party to provide detailed information on compensation and rehabilitation provided to the victims.

28. The Committee also requests detailed information on the bills criminalizing torture and on child justice and on any other bills or laws related to the implementation of the Convention. It further request information on the existing training programmes for law enforcement officials and on monitoring mechanisms in

mental health and other welfare institutions as well as on the measures to prevent and prohibit the production, trade and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment.

29. The Committee requests the State party to provide, within one year, information on its response to the recommendations in paragraphs 15, 16, 21, 23, 27 and 28 above.
(...)
