

Mandates of Working Group of experts on people of African descent; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group of experts on people of African descent; Special Rapporteur on minority issues; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 27/25, 25/5, 25/32, 26/12, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **torture of African Americans and other minorities at Area [REDACTED] Police Headquarters in the City of Chicago from 1972 through 1991**. The officers and officials who allegedly committed torture against these detainees have not stood trial nor been convicted for the torture they have committed.

According to information received:

Between 1972 and 1981 more than 100 African Americans and other minorities were allegedly tortured by the [REDACTED] under the command of former Police Commander [REDACTED]. The Chicago police and detectives, all of whom were Caucasian, used torture and other ill-treatment to extract confessions from suspects. These forced confessions resulted in dozens of individuals being sentenced to long prison sentences and in the case of eleven individuals, death sentences. Although none of those sentenced to death in relation to the [REDACTED]

scandal were executed, a male prisoner who was tortured and coerced into his confession, died in prison in 1998.

Chicago police in Area [REDACTED] Headquarters reportedly tortured African Americans and other minorities by using electric shocks on their genitals, lips and ears with cattle prods and an electric shock box that the police named the "Nigger Box". Police in these headquarters also allegedly covered the heads of detainees with plastic bags to suffocate them. This suffocating was used alone and simultaneously with electric shocks. Detainees were also tortured by means of mock executions. Police officers allegedly placed unloaded guns in the mouths of detainees and pulled the trigger to simulate an execution. Detainees were also often physically beaten with telephone books, rubber hoses, and nightsticks.

Sixteen victims were released because of evidence allegedly proving that [REDACTED], under the direction of [REDACTED], obtained their confessions through torture. Nineteen individuals who were reportedly tortured into their confessions remain incarcerated. The police officers that reportedly tortured these detainees have not been prosecuted or convicted within the United States for the crime of torture, and the majority of torture victims have not received any form of compensation for the psychological and physical injuries suffered as a result of being tortured. Multiple alleged victims who are still incarcerated have not had their cases and claims promptly, thoroughly and effectively investigated through independent and impartial bodies. It is reported that neither prisoners who have been exonerated or who remain incarcerated have received no redress for undergoing torture at the hands of the [REDACTED] Police Department.

A class action lawsuit seeking evidentiary hearings was made against [REDACTED] in October 2012 on behalf of more than 12 who remained incarcerated due to their forced confessions. On 12 March 2014, the Chief Judge of the Criminal Division of Cook County denied the class action petition. As of March 2014, the State of Illinois Torture, Inquiry and Relief Commission has publicly listed 16 cases in which it found credible claims of torture by [REDACTED] or his subordinates, that were recommended for further judicial review.

No criminal charges were brought against [REDACTED] when he was dismissed from the police force in 1993. The police department's own investigative body, the Office of Professional Standards (OPS) had, by late 1990, already reported evidence of 50 cases of torture and abuse under [REDACTED] Officers who reportedly committed torture have not been criminally charged.

Two special prosecutors in 2006 confirmed that suspects were tortured during their interrogations, including through suffocation and use of electric shocks. It is

reported that the Special Prosecutors concluded that the statute of limitations prevented the prosecution of [REDACTED] or others under his command or supervision for the crime of torture. No [REDACTED] police officer or city official has been convicted for any acts of torture to this day.

It is reported that the Law Enforcement Torture Prevention Act (LETPA) was introduced in the United States House of Representatives during the 2010, 2011 and 2012 sessions. In this proposed bill, law enforcement officials (or others acting "under color of law"), convicted of committing, attempting or conspiring to commit torture would reportedly face a maximum penalty of 10 years in prison. If the torture led to death, the maximum term would be life.

Without prejudging the accuracy of these allegations, we are writing to your Excellency's Government to seek clarification of the circumstances regarding the allegations of torture resulting in the forced confessions of over 100 individuals belonging to various minorities, as described above. Concern is also expressed that, due to the current laws and practices in the United States of America, law enforcement officials enjoy impunity for acts of torture and other cruel, inhuman or degrading treatment that they have allegedly committed. Further concern is expressed at the allegations of the death in custody of one male prisoner in 1998.

These allegations would appear to contravene several of the international human rights obligations of the United States of America under the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which it ratified respectively on 8 June 1992, and on 21 October 1994. Under these instruments, torture is universally prohibited (ICCPR, Art. 6) and no derogation from this right can be justified under any circumstance (ICCPR, Art. 4; CAT, Art. 2). States must take effective legislative, administrative, judicial or other measures to prevent acts of torture (CAT, Art. 2); they shall ensure that all acts of torture are offences under their criminal law and that they are punishable (CAT, Art. 4); that allegations of torture are promptly and impartially investigated (CAT, Art. 12); that they are duly prosecuted by a court of law, that perpetrators are punished according to the gravity of the offence, and that victims obtain redress and compensation (CAT, Art. 14). They also appear to contravene several provisions of the International convention on the elimination of all forms of racial discrimination (ICERD, ratified by the United States of America in 1994) notably its Articles 2, 5 and 6.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide the full details, and where available the results, of any investigation, medical examinations, and judicial or other inquiry undertaken in relation to:

(a) the torture of over 100 African Americans and other members of minorities by [REDACTED] Police officers between the years 1972 and 1999;

(b) the absence of prompt, impartial and effective investigations into these allegations of torture;

(c) the absence of domestic legislation penalizing and prohibiting torture;

(d) the death in custody of one male prisoner in 1998 after allegedly having been tortured.

If no inquiries have taken place, or if they have been inconclusive, please explain why.

3. In the event that the alleged perpetrators of the cases mentioned above are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

4. Please indicate whether steps have been undertaken to provide reparation and adequate compensation to the victims and their families for the alleged treatment while in custody, and their deprivation of liberty following confessions extracted under torture.

5. Please indicate how the crime of torture is criminalized in the United States and whether United States law conforms with the international law standard that statutes of limitation do not apply to torture.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mireille Fanon Mendes-France
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IZSÁK Rita
Special Rapporteur on minority issues

Mutuma Ruteere
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
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Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Annex

Reference to international human rights law

In connection with the allegations and concerns expressed in this communication, the following international legal norms and standards would appear to be relevant and applicable:

As states in the letter, the allegations would appear to contravene several of the international human rights obligations of the United States of America under the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which it ratified respectively on 8 June 1992, and on 21 October 1994. They include the following provisions: torture is universally prohibited (ICCPR, Art. 6) and no derogation from this right can be justified under any circumstance (ICCPR, Art. 4; CAT, Art. 2). States must take effective legislative, administrative, judicial or other measures to prevent acts of torture (CAT, Art. 2); they shall ensure that all acts of torture are offences under their criminal law and that they are punishable (CAT, Art. 4); that allegations of torture are promptly and impartially investigated (CAT, Art. 12); that they are duly prosecuted by a court of law, that perpetrators are punished according to the gravity of the offence, and that victims obtain redress and compensation (CAT, Art. 14).

The allegations also appear to contravene several provisions of the International convention on the elimination of all forms of racial discrimination (ICERD, ratified by the United States of America in 1994) notably its articles 2, 5 and 6.

In connection with above alleged facts and concerns, we would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which the United States of America has ratified respectively on 8 June 1992, and on 21 October 1994.

Article 7(b) of the Human Rights Council Resolution 16/23 urges States to take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the

Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.

Article 7(c) urges States to ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

Article 7(e) urges States to ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken.

Article 7(f) urges States to ensure that all acts of torture are offences under domestic criminal law, and encourages States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment.

According to the Human Rights Committee, when the State detains an individual, it is held to a heightened level of diligence in protecting that individual's rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. In the case of *Dermat Barbato v. Uruguay*, communication no. 84/1981 (21/10/1982), paragraph 9.2, despite uncertainty as to the exact cause of death, state authorities were held responsible for failing to take adequate measures to protect Hugo Dermat's life, as required by article 6(1) of the International Covenant on Civil and Political Rights.

In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions (principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). The Human Rights Council reiterated this principle by at its 26th Session in Resolution 26/12 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4). The Council added that this

obligation includes identifying and bringing to justice those responsible; and granting adequate compensation to the victim or his family.