



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture Sixty-sixth session

Summary record of the 1730th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 30 April 2019, at 10 a.m.

Chair: Mr. Modvig

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* No summary record was issued for the 1729th meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Second periodic report of South Africa (CAT/C/ZAF/2; CAT/C/ZAF/Q/2, CAT/C/ZAF/Q/2/Add.1 and CAT/C/ZAF/Q/2/Add.2)

1. *At the invitation of the Chair, the delegation of South Africa took places at the Committee table.*
2. **Mr. Jeffery** (South Africa) said that, since his country's previous appearance before the Committee in 2006, various pieces of legislation had been adopted to implement the Convention. For example, the Convention had been incorporated into domestic law with the enactment of the Prevention and Combating of Torture of Persons Act (the Anti-Torture Act) in 2013 and the Criminal Procedure Act had been amended to specify that the right to institute prosecutions for torture never lapsed, thereby removing the previous 20-year statute of limitation with respect to torture offences. Various other statutes had also been used to prosecute acts or omissions that did not strictly fall within the scope of torture, including assault, assault with intent to cause grievous bodily harm, murder, sexual offences and intimidation. The Independent Police Investigative Directorate Act of 2011 contained provisions that contributed to improving police transparency and accountability. The Directorate was responsible for investigating any deaths in police custody, deaths as a result of police actions and complaints of torture or assault against a police officer in the execution of his or her duties.
3. He was pleased to advise the Committee that both Houses of Parliament, the National Assembly and the National Council of Provinces, had approved the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in March 2019. The Government was in the process of depositing the instrument of accession with the Secretary-General of the United Nations and work was already under way to establish the national preventive mechanism. One important consideration was that several bodies, including the Judicial Inspectorate for Correctional Services and the Independent Police Investigative Directorate, already had an oversight mandate in relation to places of detention. It had been decided that those bodies would continue to make an important contribution to the work of the national preventive mechanism, which would initially be funded by way of ring-fenced allocations from the Department of Justice and Constitutional Development for the next three years.
4. With reference to issues that had been raised by civil society and human rights organizations, an overhaul of public order policing had been recommended by the Marikana Commission of Inquiry in 2015. A panel of international experts and a ministerial task team had subsequently been set up to help the Government and the police to implement its recommendations on issues including the improvement of police command and control in violent protest circumstances. The Government had acknowledged that a full audit trail and more complete recording of police operations were necessary and that police officers must accept that they had a duty of public accountability. Accordingly, one of the goals of the National Development Plan (2030) for South Africa was to create a culture of accountability and good leadership in the police. The Plan was already starting to make a positive impact on the training of police and law enforcement officials and the handling of unlawful arrest and personal injury claims against the police.
5. The Health Ombud had investigated and reported on the Life Esidimeni tragedy, in which mental health-care users had died following their transfer to the care of non-governmental organizations. As a result, alternative dispute resolution hearings had been held between October 2017 and February 2018. The Department of Health was in the process of implementing all the recommendations contained in the Ombud's report.
6. With reference to paragraph 91 of the replies to the list of issues (CAT/C/ZAF/Q/2/Add.2) on investigations into human rights violations during the apartheid era, the Minister of Justice and Correctional Services had recently authorized an application by the National Prosecuting Authority to reopen an inquest into the death in detention of anti-apartheid activist Dr. Neil Aggett, who had been detained in police cells in

Johannesburg and found dead on 5 February 1982. Although an inquest held at the time had found that he had committed suicide, those findings had been condemned because the magistrate had excluded critical evidence indicating a pattern of torture. The application to reopen the case had been made following a recent investigation by the South African Police Service, which had uncovered several new facts raising important questions about the findings of the magistrate who had conducted the first inquest. Inquests into other deaths in detention without trial during the struggle against apartheid would continue to be held.

7. The delegation would welcome guidance from the Committee with respect to its future reporting obligations. The second periodic report of South Africa had been submitted in 2017, well after the end of the reporting period in 2013. Clarification as to the structure of the following reporting period and the scheduled submission date of the third report would be appreciated. The State was keen to deal with its existing backlog of reports under the treaty body system and, in that regard, the delegation confirmed that the Department of International Relations and Cooperation had initiated discussions to move to the simplified reporting procedure.

8. **Ms. Racu** (Country Rapporteur), commending the delegation for the information provided in the report, said that the Committee welcomed the adoption of several pieces of legislation reinforcing the human rights architecture in the country, and the Government's establishment of an interdepartmental committee to work on compliance with treaty and reporting obligations boded well for the State party's future engagement with the treaty body system.

9. Although the adoption of the Prevention and Combating of Torture of Persons Act had constituted a significant step forward in the fight against torture in South Africa, there were still significant gaps in both the legal protection provided and its implementation. For example, by not categorizing torture as a serious crime, the provisions of the Act allowed for an unacceptable scenario whereby a perpetrator might only be given a suspended sentence for his or her offence. Neither did the Act adequately address the responsibility of the State to provide and ensure redress for victims of torture.

10. Since certain non-governmental organizations had indicated that no public officials had been prosecuted under the Act, the Committee would welcome more details on the specific norms and legislation under which State officials had been prosecuted for incidents of assault, murder or torture. The Committee had also learned that the National Assembly was in the process of revising the Independent Police Investigative Directorate's enabling legislation. Updated information on the status of those amendments would be appreciated. She would be particularly keen to know whether there were any plans to make torture a distinct area of investigation, separate from allegations of assault. The Committee would also welcome confirmation as to whether the definition of torture set forth in the Prevention and Combating of Torture of Persons Act was in line with the provisions of the Convention.

11. In 2016, without prior parliamentary approval, the Government had decided to withdraw from the Rome Statute of the International Criminal Court and to repeal the domestic enacting legislation. The decision had subsequently been declared unconstitutional and invalid by the High Court. Since some sources had indicated that the Government still intended to withdraw from the Rome Statute, she invited the delegation to clarify the status of international criminal jurisdiction in the country.

12. The Committee would appreciate further information on any progress that had been made towards implementing the recommendations on strengthening the South African Human Rights Commission that had been made by the Global Alliance of National Human Rights Institutions in 2017. In relation to the plans to create a national preventive mechanism under the auspices of the Commission, it would be helpful to understand whether the provisions of the draft bill on the Optional Protocol were fully in line with the text of the Optional Protocol itself, particularly concerning impartiality, independence and membership selection. Would the Government ensure that, prior to its establishment, the mechanism was adequately resourced to fully implement its mandate?

13. With reference to the monitoring of places of detention, she invited the delegation to comment on the observations made by the United States Department of State that human rights organizations were obliged to apply for permission to gain access to prisons and that

organizations could also request permission to visit prisons to conduct specific research. Other non-governmental organizations had claimed that Independent Correctional Centre Visitors, appointed by the Judicial Inspectorate for Correctional Services to monitor prison conditions, lacked independence in their oversight and reporting of abuse complaints. The Committee would be interested to know how efficient their visits were in practice and whether their monitoring work would continue once the national preventive mechanism became operational. She also invited the delegation to comment on the concerns expressed by non-governmental organizations that there was no regular and independent monitoring of police cells.

14. As far as fundamental legal safeguards against torture were concerned, clarification as to whether lawyers, members of the South African Human Rights Commission, monitoring entities and family members had access to the information on detainees held in custody registers and occurrence books at police stations would be appreciated. She wished to know whether officers who had failed to record that information had been held accountable and, if so, what penalties had been applied. Had there had been any cases where police officers had been held criminally accountable for unacknowledged or incommunicado detention?

15. Further clarification regarding the use of audio or video recording equipment in interrogation spaces would be welcome. The Committee would be interested to know whether the electronic recording of information could be authorized for cases of serious crimes other than torture and whether the recording of interrogation rooms had been made mandatory under the State's criminal procedure. Information on how the State party was guaranteeing access to video surveillance in investigations into allegations of torture while in police custody would also be of interest.

16. She would welcome an update on the steps the State party had taken to improve access to a doctor for persons in police custody, including details of how they could request a medical examination, and on whether persons deprived of their liberty who claimed to have been subjected to torture or ill-treatment were examined by an independent doctor.

17. She would also appreciate information on any improvements that had been made to the provision of medical care in police and prison facilities, including in relation to the introduction of medical examinations upon arrival and the identification and documentation of injuries at both the beginning and the end of any period of detention. It would be useful to learn whether there had been any increase in the number of prison staff in the State party. She would be interested to hear whether prison staff were present at medical examinations and whether doctors working with detainees received training in the identification and documentation of signs of torture in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

18. The Committee was concerned about reports that no cases of torture had been brought before the courts since the adoption of the Prevention and Combating of Torture of Persons Act.

19. Turning to the question of arbitrary arrests and detention, including of migrants and asylum seekers, she said that the Committee had been informed that persons arrested for minor offences were sometimes detained alongside persons involved in serious crimes and that police officers placed unaccompanied migrant children in detention for immigration violations despite the practice being prohibited. It would be helpful to learn whether the Government had any plans to decriminalize minor offences in line with the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Luanda Guidelines) and the Principles on the Decriminalization of Petty Offences in Africa, or to take other steps to end the practice of arbitrary detention.

20. Although the State party had put in place a strong legislative framework relating to the protection of refugees and migrants, she was concerned about reports that insufficient resources were allocated for the documentation of acts of torture committed against foreign nationals. In particular, she would like to receive information on the Lindela Repatriation Centre, which housed asylum seekers who were due to be deported, including with respect to the conditions in the facility and the provision of medical care there.

21. The Committee would appreciate an account of the measures taken to ensure that individuals who were returned to their country of origin would not be subjected to torture or ill-treatment there. It would also welcome details of any procedures in place to identify refugees residing in the State party who had been subjected to torture. It would be useful to receive an update on the development of a protocol to streamline the delivery of child protection services for migrant, asylum-seeking and refugee children.

22. Citing reports of a spike in xenophobic rhetoric and violence in Pretoria and Johannesburg during protests in January and February 2017, she asked for official figures on the incidents that had taken place and details of any related investigations that had been launched. She would be interested to know which ethnic or religious groups were most frequently targeted in discrimination-based attacks and what steps the authorities were taking to protect asylum seekers and refugees from harassment.

23. In connection with the issue of violence against women, the Committee would be grateful for disaggregated data for the previous five years on the number of investigations conducted in connection with gender-based violence, including domestic violence, and the sentences imposed. She would welcome details of the measures being taken to ensure that victims of gender-based violence were able to file complaints, and that those complaints would be investigated thoroughly and the perpetrators prosecuted and punished. It would be interesting to know how the Government was tackling the underreporting of the number of victims of domestic violence.

24. The number of male victims of rape was also underreported. She wished to know whether data on male victims were collected and how many cases had been investigated and brought to trial. It would be useful to hear about any strategies in place to allow victims to file confidential complaints in such cases.

25. Although the practice of female genital mutilation was prohibited in the State party, girls in ethnic Venda communities in Limpopo province were reportedly still subjected to it. She would welcome statistics relating to the problem, as well as an account of what was being done in that province and elsewhere to prevent harmful practices.

26. Turning to the issue of trafficking in persons, she asked the delegation to provide an update on the status of the National Policy Framework against Trafficking in Persons. The Committee would be grateful for updated statistics on the number of victims of human trafficking in the State party, as well as on how many cases had been prosecuted and how many sentences had been imposed. It also wished to receive data on the number of investigations, prosecutions and convictions of government officials in connection with human trafficking offences. It would welcome information on the steps taken to establish victim identification procedures that were aligned with the Convention and on how the Government monitored the effectiveness of victim protection services. Lastly, it would appreciate the delegation's comments on the measures being taken to prevent sex trafficking, including the trafficking of children for the purposes of sex.

27. Noting that almost 100 inmates serving life sentences in Barberton prison had gone on hunger strike in 2018 over concerns about their right to parole, she asked the delegation to comment on whether there were plans to amend the legislation governing release on parole. She wished to learn how many prisoners had been sentenced to life imprisonment and whether they were able to submit complaints and communicate with monitoring bodies in a confidential manner.

28. The Committee was concerned about staff shortages and high levels of staff absenteeism in prisons. It would be useful to hear about any recent steps that had been taken to address those issues and to prevent prison staff burnout. In addition, it would be helpful to have data on the number of staff, including medical personnel, working in detention facilities over the previous two years.

29. Drawing attention to the alarming numbers of deaths that had occurred in police custody, in correctional facilities or as a result of police action between 2015 and 2018, she said that the system used to collect information on such deaths was reportedly not operating correctly. Investigations into deaths in custody conducted by the Judicial Inspectorate for Correctional Services were allegedly ineffective. She would welcome the delegation's

comments on whether the Inspectorate had sufficient independence and resources to fulfil its mandate. It was unclear whether there were additional obstacles to the proper investigation of deaths in custody. She would be grateful for clarification of the procedures followed in the examination of the bodies of persons who had died in custody, including whether efforts were made to apply the Minnesota Protocol on the Investigation of Potentially Unlawful Death. It would be helpful to hear about the measures used in the State party to prevent violence, self-harm and suicide in prisons.

30. In the wake of the Life Esidimeni tragedy, in which 143 persons had died in Gauteng province after being relocated from the Life Esidimeni institution to unlicensed and underfunded mental health facilities, the Committee would like to hear the delegation's assessment of the lessons learned in terms of policy and systemic reform, as well as an account of the steps that would be taken to prevent similar tragedies in the future. It was unclear whether post-mortem examinations had been performed on the bodies of all the victims of the tragedy. The Committee would welcome an update on the progress made in the investigations and prosecutions relating to the case, and on the redress and compensation that had been offered to the victims and their families.

31. The Committee had received numerous reports of violence and mistreatment of lesbian, gay, bisexual, transgender and intersex persons, including by law enforcement personnel. It would be helpful to receive up-to-date information on the investigations conducted, prosecutions brought and convictions handed down in cases of violence against such persons, including cases that had occurred in places of detention. The Committee would appreciate the delegation's comments on the measures implemented in security and justice institutions to avoid cruel and inhuman treatment of such persons, and on the public policies that were specifically intended to safeguard their civil, political, economic, social and cultural rights.

32. Turning to the issue of discrimination against persons with albinism and persons accused of witchcraft, she asked whether allegations that persons accused of witchcraft had been attacked and killed, particularly in Limpopo, Mpumalanga, KwaZulu-Natal and Eastern Cape provinces, had been investigated. How did the State party respond to cases of violence against persons with albinism? How effective were the programmes in place to prevent such violence?

33. **Ms. Belmir** (Country Rapporteur) said that the Committee was concerned about the lack of a framework to evaluate the effectiveness of the training given to law enforcement officers and prison staff on the prohibition of torture and the contents of the Istanbul Protocol. She would be interested to hear whether the Government had plans to include references to training in the National Instruction on the Prevention and Combating of Torture of Persons.

34. Despite positive measures taken to address the issue, reports of torture and ill-treatment by law enforcement personnel were very frequent. Such acts, which often went unpunished, took place in South Africa's prevailing climate of violence. The social acceptance of violence extended to law enforcement personnel, who regarded the often young and vulnerable persons in conflict with the law primarily as potential criminals.

35. She would appreciate clarification on the institution of segregation, which had been established in 2008 to replace the newly abolished practice of solitary confinement, and which could involve prisoners spending 22 hours a day alone in their cells. Although prisoners could appeal against segregation to an inspecting judge, they appeared to be unaware of that remedy. Similarly, the independent visitors to prisons had recorded very few complaints. That could be because prisoners lacked knowledge of the complaint mechanism or because they feared retaliation.

36. Studies had shown that the prison population was overwhelmingly African and Coloured and that African men were much more likely to be put in prison and subjected to pretrial detention than white men. The trend required sociological explanation. Various forms of violence in prison, which sometimes resulted in deaths, were a major problem and overcrowding was a key factor in that violence. Overcrowding was widespread and had increased significantly since the increase in the maximum sentences available to judges and the introduction of mandatory minimum sentences in the late 1990s.

37. Given the high number of pretrial detainees, criticisms had been made of the excessive length of the two-year remand period allowed and the optional nature of court investigations into unreasonably delayed trials for remand cases. Furthermore, if bail had previously been refused, a new request could only be submitted if new evidence was presented and there was no mechanism for courts to review decisions to deny bail. She would like to know what solutions were planned or already implemented to remedy the situation. Despite progress made on the treatment of infectious diseases in prison, there remained a large number of natural deaths due to poor health care. Cases of alleged abuses were often not investigated while the information provided on specific cases often referred to an ongoing investigation, indicating that the process was slow.

38. She welcomed the successful prosecution and sentencing of a police officer from Ladybrand in 2015 following his assault of a man with a disability using a whip. That indicated a willingness to punish violations of the prohibition on torture, which was offset by an institutional culture in which police officers justified the illegal use of force on prisoners who were believed to have committed violent crimes. Training was essential to show law enforcement personnel that alternative ways of handling such cases were possible.

39. She wished to have clarification on the measures taken with regard to the cover-up of violent deaths in prisons operated by private companies such as G4S. It would be useful to have further information on the cases of violence used against university students, beyond the statement that such violence was necessary and proportional. She did not understand how the Lindela Repatriation Centre could have been found to be compliant with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) if there was any truth at all in the allegations of ill-treatment of asylum seekers at the Centre.

40. She would appreciate an explanation of the fact that in many cases of alleged violence by prison personnel against prisoners, either the evidence had been insufficient, the prisoners had withdrawn their complaints, or the violence had been found to constitute a reasonable and necessary use of force. It was important to know if violence had taken place and if it had been necessary in order to determine the existence of torture.

41. A certain ambiguity in the information provided could stem from the Prevention and Combating of Torture of Persons Act (the Anti-Torture Act) of 2013, which did not specify the elements of the crime of torture. In the replies of the State party, the words “including torture” had been added to mentions of violent offences, as if torture was committed in addition to other acts, rather than those acts constituting part of the torture. The Constitution contained more specific language related to torture, which could serve as a guide if the Anti-Torture Act were amended.

42. The high number of complaints of police violence rarely led to disciplinary or criminal sanctions, and only a small proportion of the cases recommended for prosecution by the Independent Police Investigative Directorate resulted in criminal convictions. Impunity from prosecution was also a concern in cases of violence perpetrated by prison staff and prosecutions were rare even when those acts resulted in deaths. In 2012, the Judicial Inspectorate for Correctional Services had followed up on homicide cases which had been ongoing in the previous year. It had found that the police had closed most cases and that, even when cases had been referred to the National Prosecuting Authority, it had declined to prosecute.

43. The National Director of Public Prosecutions had wide-ranging discretionary powers. The decision to prosecute lay with the National Prosecuting Authority, but prosecution was mandatory in cases where there existed *prima facie* evidence and there was no imperative reason not to prosecute. The extremely low number of prosecutions against law enforcement personnel called into question the proper use of discretionary powers. It would be necessary to take measures to ensure the prosecution of law enforcement personnel who were involved in serious violations of rights, including training on the recognition of acts of torture instigated by police officers.

44. She would like to be given more details on the measures taken to ensure redress for victims, including the processing of payments following the adoption of the Anti-Torture

Act, the Prevention and Combating of Trafficking in Persons Act and the integrated Victim Empowerment Programme, including the Shelter Strategy for Abused Women, support services under the programme and awareness-raising among vulnerable persons. She would appreciate more information on the status of any claims for redress regarding acts of torture committed under the apartheid regime. It would be difficult for the State party to provide adequate redress, given that, according to paragraph 95 of its replies to the list of issues (CATC/ZAF/Q/2/Add.2), it had difficulty in interpreting the relevant sections of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines). Further areas for concern included the absence of specified reparations in the Anti-Torture Act, which forced victims to rely on civil proceedings; the power of the courts to decide if compensation was owed to victims of trafficking in persons; and the lack of data on the number of requests for compensation. Legislation and policies in the area were currently being developed but their positive impact would depend on clarification of the law and of government strategy.

45. It had been reported that the recommendations of the Truth and Reconciliation Commission regarding the prosecution of perpetrators had not been fully implemented and that cases of enforced disappearance had not yet been investigated. She hoped that efforts would be made to document such cases, ensure reparations for the victims and put an end to the de facto impunity enjoyed by the perpetrators.

46. Although the State party had indicated that evidence obtained through torture was inadmissible under the Constitution, reports suggested that many confessions were extracted through the use of coercion.

47. With respect to immigration, the Committee was concerned that the Department of Home Affairs' plans to establish processing centres at borders could lead to the arbitrary detention of refugees, migrants and asylum seekers. Already, there were allegations that some immigration officials had refused to grant asylum seekers permits at the point of entry, exposing them to the risk of refoulement. Moreover, the South African Human Rights Commission had criticized as xenophobic comments allegedly made by the Deputy Minister of Police about the number of foreigners and the level of crime in Johannesburg. She wished to know whether the State party had complied with the ruling by the Supreme Court that the refugee reception centre in Cape Town must be reopened.

48. It was unclear whether the age of majority in South Africa had been increased from 14 years. All young people of that age were children under international law and must be treated in accordance with the Convention on the Rights of the Child.

49. Given that human rights defenders were frequently subjected to intimidation, excessive use of force, physical attacks and even killings, the State party must find solutions to ensure that law enforcement officials fully discharged their duties with respect to the protection of those individuals.

50. **Mr. Tuzmukhamedov** said that he would welcome clarification as to the State party's position with respect to the Rome Statute of the International Criminal Court. It was still unclear whether the State party would proceed with its withdrawal or consider remaining under the Court's jurisdiction.

51. The International Crimes Bill, introduced in the National Assembly in 2017, stated that some persons could enjoy immunity from prosecution even if they had committed the crime of torture. He would welcome further information about the bill and its current status.

52. **Ms. Gaer** said that the data presented in paragraph 199 of the State party report appeared to show an increase in inmate-on-inmate violence in South African prisons. As the figures given dated from 2013 and earlier, she would appreciate up-to-date statistical data on such incidents.

53. She commended the State party's acceptance of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Optional Protocol) and its designation of the South African Human Rights Commission as the coordinating body for the national preventive mechanism.

54. She wished to know whether any cases had been brought in relation to the provision of the Children's Act that established South Africa's extraterritorial jurisdiction over the crime of child trafficking when committed by South African nationals outside South Africa. If so, it would be interesting to hear whether such cases had led to investigations, charges or prosecutions.

55. According to the 2018 Trafficking in Persons Report by the United States Department of State, the State party had convicted eight traffickers, but four had received suspended sentences. The imposition of a fine in lieu of a prison sentence was found to be quite common in cases of sex trafficking. Given that a pattern of inadequate sentencing seemed to have been established, the delegation should provide more information on the justification for failing to fully punish the perpetrators of serious crimes. It would be useful to know whether there had been any investigations, charges or sanctions in response to allegations that officials within the Department of Home Affairs had produced fraudulent identification documents that facilitated trafficking crimes. The delegation should also comment on the indication, contained in the 2018 Trafficking in Persons Report, that the Government had arrested several border guards but failed to prosecute or convict any officials complicit in assisting traffickers.

56. It would be highly appreciated if the delegation could provide disaggregated statistical data on the age and sex of perpetrators of sexual and gender-based violence, as well as on the relationship between perpetrators and victims. She would be interested to hear why, according to the Special Rapporteur on torture, protection orders were only granted to 28 per cent of individuals who applied for them. More information on how the State party analysed and used its statistical data on acts of violence would be welcome.

57. She wondered whether the policies and programmes to support victims and prevent secondary traumatization, referred to in the replies to the list of issues, had been developed on the basis of research or problems identified. She would appreciate statistics on the number of femicides that had occurred in the State party.

58. Lastly, she would like to know whether plans were in place to increase the funding assigned to the South African Human Rights Commission. In relation to the case of Mr. Ahmed Essop Timol, it would be useful to know whether resources were being made available to the Commission to empower it to gather further information for families whose relatives had died in detention, in accordance with the recommendations of the North Gauteng High Court.

59. **Mr. Rodríguez-Pinzón** said that it was his understanding that civil proceedings to obtain reparations could only be filed by a victim if the perpetrator of the acts had been convicted of torture. That requirement was of concern given the low number of convictions for torture under the Prevention and Combating of Torture of Persons Act, 2013. If his understanding was correct, he wished to know what measures the State party was considering to remedy the situation and thus give full effect to its obligations under article 14 of the Convention.

60. He wished to know whether the State party was considering developing a comprehensive rehabilitation programme for victims of torture. The absence of psychosocial and other support disproportionately affected vulnerable groups, such as refugees and asylum seekers.

61. The State party should consider developing a standard, on the basis of the Prevention and Combating of Torture of Persons Act, 2013, for the formal recognition of victims of torture, as doing so would expedite their access to reparations.

62. **Mr. Hani** said that, although the State party claimed, in paragraph 152 of its report, that the concept and practice of solitary confinement had been abolished, the practice of "segregation", which could reportedly be imposed for up to two months, also violated the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). He would welcome details on the new procedure, including the periods for which it was imposed and the monitoring carried out by judicial officials.

63. In its recent judgment in *Ruta v. Minister of Home Affairs*, the Constitutional Court had recalled the State party's regional as well as national obligations with respect to non-

refoulement. The Court had found that the State party's asylum procedure was too long and arduous, and that it imposed an excessive burden on the asylum seeker and created a constant risk of dangerous or even fatal refoulement. He wished to know what measures the State party had taken to implement the judgment.

64. In *Minister of Home Affairs and Others v. Emmanuel Tsebe and Others*, the Constitutional Court had granted an order declaring that, in the absence of the requisite assurance, the applicant's extradition or deportation would be unlawful and unconstitutional. He would appreciate more information on what diplomatic assurances the State party had offered or received in relation to the case.

65. In a 2018 judgment, the Constitutional Court had criticized the Regulation of Gatherings Act of 1993. The delegation should give details of any action taken to amend the Act.

66. With respect to the Life Esidimeni tragedy, he wished to know what the State party had done to apologize to victims, award reparations, and provide guarantees of non-repetition.

67. **Ms. Zhang** said that she would welcome statistical data on the number of State officials who had received appropriate training, including how many of them were medical professionals or officials involved in interrogation or detention. It would be useful to know what the State party had done to ensure that all State officials received the necessary training in a continuous manner. She would welcome further information on the content of the human rights training programme for police officers, including whether it covered the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and the Nelson Mandela Rules.

68. She would appreciate statistics or data that confirmed that awareness-raising about the gravity of torture had resulted in an increase in the number of crimes reported, as indicated in paragraph 80 of the State party's report.

69. **The Chair** said that he would be interested to hear what lessons had been learned from the Life Esidimeni scandal. Specifically, the delegation should explain the basis on which the non-governmental organizations concerned had been contracted by the Government. It would be useful to know whether their credentials been verified, and whether the necessary oversight had been in place.

70. **Ms. Belmir** said that she would appreciate information on the inquiries into the great many cases of torture and deaths in custody that the State party claimed were still pending.

71. Reports suggested that the heavy workload of the South African Police Service could be causing officers to become physically and mentally exhausted. The Service was reportedly responsible for a wide variety of tasks, ranging from the maintenance of public order to domestic security. It would be useful if the delegation could comment on their duties, as the relatively high number of cases of ill-treatment and torture could be linked to mismanagement in the distribution of tasks among law enforcement officers.

The meeting rose at 12.55 p.m.