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South Africa: Amnesty International encouraged by initial steps to strengthen protections against torture but condemns continued use of excessive force by police and the failure to uphold refugee rights

Human Rights Council adopts Universal Periodic Review outcome on South Africa

Amnesty International welcomes South Africa's acknowledgement, at its review, of the need to strengthen the legal framework for combating torture.¹

Amnesty International commends South Africa for conducting public hearings on the Prevention and Combating of Torture of Persons Bill on 4 September. In a submission on the Bill, Amnesty International urged that its scope be expanded to reflect the full extent of South Africa's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²

The organization also urges South Africa to make rapid progress in ratifying the Optional Protocol to the Convention against Torture, as recommended in the review.³ Accumulating evidence points to a situation where torture and other ill-treatment have once again acquired a "systematic character", that is, "habitual, widespread and deliberate",⁴ with more needing to be done by the government to halt this trend.

Amnesty International urges South Africa to increase its commitment to prevent the excessive use of force and deliberate targeted killings by police. The killing by heavily armed police of 34 striking mine workers at Marikana last August and the multiple targeted killings allegedly committed by members of a Durban-based police unit, now on trial, are two extremely concerning examples of an increasing trend in the last five years.

Amnesty International notes South Africa's stated intention to develop a comprehensive Immigration Policy, including through a review of existing legislation, consultation with key stakeholders and identifying "best international practices".⁵

¹ A/HRC/21/16, para.116 and referring to recommendations 125.2 (United Kingdom); 125.9 (France); 125.15 (Togo, Nicaragua, Hungary); 125.16 (Denmark); 125.20 (Cape Verde); 125.54 (Slovenia); 125.55 (Czech Republic); 125.56 (France); 125.57 (Costa Rica).

² Written Submission to the Portfolio Committee on Justice and Constitutional Development, Parliament of South Africa, on the Prevention and Combating of Torture of Persons Bill, from Amnesty International, 31 July 2012.

³ A/HRC/21/16, recommendations 125.2, 125.9, 125.15-16, 125.54-55 and 125.57.

⁴ Citing the formulation used by the UN Committee against Torture in Report of the Committee against Torture, UN Doc. A/48/44/Add.1 (1993), para. 39.

⁵ A/HRC/21/16, para.120 and referring to recommendations 125.37 (Namibia); 125.38 (Iran); 125.39 (Paraguay); 125.40 (Djibouti); 125.41 (Thailand); 125.42 (Iraq); 125.43 (Ireland); 125.44 (Republic of Korea); 125.45 (Mozambique); 125.46 (Indonesia); 125.58 (Ecuador); 125.146 (Belgium); 125.147 (Philippines); 125.148 (Germany); 125.149 (Slovakia); 125.50 (Mexico); 125.151 (Slovakia).

Amnesty International is concerned, however, that over the past year officials have failed to consult with stakeholders, even when ordered to do so by the courts. Evolving policy is dismantling the asylum system and rendering non-discriminatory access to protection increasingly difficult, resulting in increased risks of fines, detention or *refoulement* for those unable to access services. These developments are coinciding with or leading to increased levels of targeted violence, forcible closures of small businesses and displacements across the country.

Amnesty International urges South Africa to uphold and protect the rights of asylum-seekers and refugees and to renew its legal commitments to the system of international protection, while seeking to address the needs of impoverished South Africans.

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of South Africa on 21 September 2012 during its 21st session. Prior to the adoption of the review outcome Amnesty International delivered the oral statement above. Amnesty International had earlier submitted information on the situation of human rights in South Africa:

<http://www.amnesty.org/en/library/info/AFR53/003/2012/en>

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