

NEW ZEALAND

Follow-up- State Reporting

i) Action by Treaty Body

CAT/C/SR.334 (1998)

COMMITTEE AGAINST TORTURE

Twentieth session

SUMMARY RECORD OF THE PUBLIC PART OF THE 334th MEETING

Thursday, 14 May 1998, at 10 a.m.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 6) (continued)

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Conclusions and recommendations concerning the second periodic report of New Zealand (continued)

33. The CHAIRMAN read out a letter* sent to him by Mr. Farrell, Permanent Representative of New Zealand to the United Nations Office at Geneva, after his delegation had taken note of the Committee's conclusions on the second periodic report of New Zealand.

“We advised the Committee at the conclusion of its consideration of New Zealand's second periodic report under Article 19 of the Convention against Torture that the New Zealand Government would wish to submit further comments in response to the concluding observations and recommendations of the Committee.

Having considered carefully the recommendations made by the Committee, the New Zealand Government wishes to express its view that, with respect to the recommendations contained in paragraphs 8 and 9 of the Committee's conclusions and recommendations, it has already taken the action recommended by the Committee. These actions, taken by the Government in response to the Mangaroa Prison inquiry, are fully set out in New Zealand's second periodic report and supporting information. New Zealand's statement introducing the report brought to the attention of the Committee the further significant actions taken since the reporting period.

For the Committee's clarification, the New Zealand Government wishes to reiterate the following points made in New Zealand's statement and by the delegation in response to the Committee's questions:

The inquiry by the New Zealand Police into allegations of assault by inmates of Mangaroa Prison has been completed. After referring Police files to the SolicitorGeneral

it was decided that no criminal prosecution would be undertaken. Internal disciplinary action was taken against a number of prison officers by the Department of Corrections.

The Ministerial investigation of Mangaroa Prison has been completed. The results of the inquiry are contained in a report annexed to New Zealand's second periodic report and set out in paragraphs 16 to 21 of the report.

There have been significant changes to the operations of Mangaroa Prison, and in prisons generally, as a result of the Government's inquiry, to ensure that such incidents cannot occur again. Those highlighted by New Zealand's introductory statement and dialogue with the Committee include the following:

Mangaroa

Prison has a new regional manager, a new management structure with more accountability, a new name and constructive new projects, for example cooperation with the Maori community to provide inmates and managers with cultural advice and support;

New Penal Institutions Regulations are about to come into force, and amendments have been made to the Penal Institutions Act 1954, which provide for improved operational standards in New Zealand prisons. The amendments include specific limitations on the use of force in cases where the restraint of inmates is necessary;

A Custodial Assurance Board has been established to ensure the secure custody and safe, fair and humane treatment of persons within the corrections system;

Revised grievance procedures for prison inmates are now in place. The internal complaints process has been strengthened. The role of the Ombudsman has also been strengthened to provide an effective external complaints process, in addition to that of the Prison Inspectorate which reports to the Chief Executive of the Department for Courts and the Custodial Assurance Board;

Steps have been taken to ensure inmates are aware of, and are able to access, these procedures;

Procedures for recruiting prison officers have been revised to ensure that officers have the appropriate competencies, and new initiatives are being implemented with respect to their ongoing training and development.

Given this comprehensive response to the situation at Mangaroa prison, the New Zealand Government would appreciate the Committee's further consideration of the above points as part of its deliberations on New Zealand's second periodic report. We should also appreciate it if this letter could be read into the record of the Committee."

34. In response to the letter, the Committee had decided by consensus to express regret for the mistake to which the Ambassador of New Zealand had drawn attention, to reproduce the Ambassador's letter in full in the summary record of the public meeting, and to insert a reference

to the symbol of the summary record in paragraph 1 of the conclusions and recommendations on the second periodic report of New Zealand to be published in the Committee's annual report. The reference to that record and to the records of the other meetings at which New Zealand's report had been considered ensued from the Committee's decision to view the above-mentioned letter and the regrets expressed by the Committee as forming an integral part of the Committee's consideration of the second periodic report of New Zealand.

35. Mr. EL MASRY suggested that the Chairman should reply to the Ambassador of New Zealand, informing him of the Committee's decision.

36. The CHAIRMAN said that, if there was no objection, he would send a letter to the Ambassador of New Zealand on behalf of the Committee.

37. It was so decided.

The public part of the meeting rose at 12.10 p.m.

CAT, A/60/44 (2005)

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CHAPTER IV. FOLLOW-UP ON RECOMMENDATIONS AND OBSERVATIONS ON STATES PARTIES REPORTS

115. At its thirtieth session, in May 2003, the Committee began a routine practice of identifying, at the end of each set of concluding observations, a limited number of recommendations that are of a serious nature and warrant a request for additional information following the dialogue with the State party concerning its periodic report. The Committee identifies conclusions and recommendations regarding the reports of States parties which are serious, can be accomplished in a one-year period, and are protective. The Committee has requested those States parties reviewed since the thirtieth session of the Committee to provide the information sought within one year.

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118. The Rapporteur has welcomed the follow-up information provided by six States parties as of 20 May 2005, when its thirty-fourth session concluded, indicating the commitment of the States parties to an ongoing process of dialogue and cooperation aimed at enhancing compliance with the requirements of the Convention. The documentation received will be given a document number and made public. The Rapporteur has assessed the responses received particularly as to whether all of the items designated by the Committee for follow-up (normally between three and five issues) have been addressed, whether the information provided is responsive, and whether further information is required.

119. With regard to the States parties that have not supplied the information requested, the Rapporteur will write to solicit the outstanding information. The chart below details, as of 20 May 2005, the conclusion of the Committee's thirty-fourth session, the status of follow-up replies to concluding observations since the practice was initiated. As of that date, the replies from seven States parties remained outstanding.

120. As the Committee's mechanism for monitoring follow-up to concluding observations was established in May 2003, this chart describes the results of this procedure from its initiation until the close of the thirty-fourth session in May 2005.

<u>State party</u>	<u>Date due</u>	<u>Date reply received</u>	<u>Further action taken/required</u>
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New Zealand	May 2005	9 June 2005	
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CAT, A/61/44 (2006)

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

38. In Chapter IV of its annual report for 2004-2005 (A/60/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2005. This chapter updates the Committee's experience to 19 May 2006, the end of its thirty-sixth session.

39. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2006 on the results of the procedure.

40. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment," as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

41. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow-up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow-up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' report under article 19.

42. Since the procedure was established at the thirtieth session in May 2003 through the end of the thirty-sixth session in May 2006, the Committee has reviewed 39 States for which it has identified follow-up recommendations. Of the 19 States parties that were due to have submitted their follow-up reports to the Committee by 1 May 2006, 12 had completed this requirement (Argentina, Azerbaijan, Czech Republic, Colombia, Germany, Greece, Latvia, Lithuania, Morocco, New Zealand, United Kingdom, and Yemen). As of May, seven States had failed to supply follow-up information that had fallen due (Bulgaria, Cambodia, Cameroon, Chile, Croatia, Moldova, Monaco), and each was sent a reminder of the items still outstanding and requesting them to submit information to the Committee.

43. With this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

44. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all of the items designated by the Committee for follow-up (normally between three to six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she writes to solicit the outstanding information.

45. Each letter responds specifically and in detail to the information presented by the State party, which is given a formal United Nations document symbol number.

46. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues not addressed but which are deemed essential in the Committee's ongoing work in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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48. The chart below details, as of 19 May 2006, the end of the Committee's thirty-sixth session, the state of the replies with respect to follow-up.

A. Follow-up reply due before 1 May 2006

State party	Date due	Date reply received	Document symbol number	Further action taken/required
...				
New Zealand	May 2005	9 June 2005	CAT/C/CR/32/4/RESP.1	
...				

CAT, A/62/44 (2007)

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IV. FOLLOW UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In Chapter IV of its annual report for 2005 2006 (A/61/44), the Committee described the framework that it had developed to provide for follow up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2006. This chapter updates the Committee's experience to 18 May 2007, the end of its thirty eighth session.

47. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2007 on the results of the procedure.

48. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

49. Since its thirtieth session in May 2003, the Committee began the practice of identifying a limited number of these recommendations that warrant a request for additional information following the review and discussion with the State party concerning its periodic report. Such "follow up" recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its "follow up recommendations" which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

50. Since the procedure was established at the thirtieth session in May 2003, through the end of the thirty eighth session in May 2007 the Committee has reviewed 53 States for which it has identified follow up recommendations. Of the 39 States parties that were due to have submitted their follow up reports to the Committee by 18 May 2007, 25 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Germany, Greece, Latvia, Lithuania, Monaco, Morocco, New Zealand, Qatar, Sri Lanka, Switzerland, United Kingdom and Yemen). As of 18 May, 14 States had not yet supplied follow up information that had fallen due (Bulgaria, Bosnia and Herzegovina, Cambodia, Cameroon, Democratic Republic of the Congo, Georgia, Guatemala,

Republic of Korea, Moldova, Nepal, Peru, Togo, Uganda and United States of America). In March 2007, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow up information was due in November 2006, but had not yet been submitted, and who had not previously been sent a reminder.

51. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report (A/61/44). However, only 4 (Austria, Ecuador, Qatar and Sri Lanka) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. While comparatively few States had replied precisely on time, 19 of the 25 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

52. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

53. The Rapporteur has expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information is needed, she writes to the State party concerned with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she writes to solicit the outstanding information.

54. At its thirty eighth session in May, the Committee decided to make public the Rapporteur's letters to the States parties. These would be assigned a United Nations document symbol number and placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies (these symbol numbers are under consideration) to the follow up and also place them on its website.

55. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

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57. The chart below details, as of 18 May 2007, the end of the Committee's thirty eighth session, the state of the replies with respect to follow up.

Follow up procedure to conclusions and recommendations from May 2003 to May 2007

...

Thirty second session (May 2004)

State party	Information due in	Information received	Action taken
...			
New Zealand	May 2005	9 June 2005 CAT/C/CR/32/4/RESP/1 19 December 2006 CAT/C/NZL/CO/3/Add.2	Request for further clarification
...			

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CAT, CAT/C/SR.776 (2007)

COMMITTEE AGAINST TORTURE

Thirty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC) OF THE 776th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 15 May 2007, at 3 p.m.

...

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

...

Follow-up to the Committee's conclusions and recommendations on country reports (document without a symbol, distributed in English only)

16. Ms. GAER, Rapporteur on follow-up to conclusions and recommendations, said that since the establishment of the follow-up procedure, 43 States parties had been reviewed, of which 37 had been asked for additional information and 22 had replied, which was a significant proportion. Those which had not replied had received a reminder, and three examples of reminder letters were presented in the document distributed to the Committee...

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19. ...Finally, New Zealand had complained that the Committee, in its conclusions, had commended it prematurely for considering ratification of the Convention Relating to the Status of Stateless Persons. The Committee replied that the State party had expressed that intention in other fora and commended it for having meanwhile gone ahead with that ratification.

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CHAPTER IV. FOLLOW-UP ON CONCLUSIONS AND RECOMMENDATIONS ON STATES PARTIES REPORTS

46. In this chapter, the Committee updates its findings and activities that follow-up on the conclusions and recommendations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on Follow-Up to Country conclusions. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated to through May 2008, following the Committee's fortieth session.

47. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the conclusions and recommendations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2008.

48. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to conclusions and recommendations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2008 on the results of the procedure.

49. The Rapporteur has emphasized that the follow-up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and cruel treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

50. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

51. Since the procedure was established at the thirtieth session in May 2003, through the end of the fortieth session in May 2008, the Committee has reviewed 67 States for which it has identified follow-up recommendations. Of the 53 States parties that were due to have submitted

their follow-up reports to the Committee by 16 May 2008, 33 had completed this requirement (Albania, Argentina, Austria, Azerbaijan, Bahrain, Bosnia and Herzegovina, Canada, Chile, Czech Republic, Colombia, Croatia, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Republic of Korea, Latvia, Lithuania, Monaco, Morocco, Nepal, New Zealand, Qatar, Russian Federation, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen). As of 16 May, 20 States had not yet supplied follow-up information that had fallen due (Bulgaria, Burundi, Cambodia, Cameroon, Democratic Republic of the Congo, Denmark, Guyana, Italy, Japan, Luxembourg, Mexico, Moldova, the Netherlands, Peru, Poland, South Africa, Tajikistan, Togo, Uganda and Ukraine). In March 2008, the Rapporteur sent a reminder requesting the outstanding information to each of the States whose follow-up information was due in November 2007, but had not yet been submitted, and who had not previously been sent a reminder.

52. The Rapporteur noted that 14 follow-up reports had fallen due since the previous annual report.³ However, only 2 (Hungary and the Russian Federation) of these 14 States had submitted the follow-up information in a timely manner. Despite this, she expressed the view that the follow-up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow-up to the review of the periodic reports. While comparatively few States had replied precisely on time, 25 of the 33 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non-governmental organizations, many of whom had also encouraged States parties to submit follow-up information in a timely way.

53. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

54. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

55. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

56. Since the recommendations to each State party are crafted to reflect the specific situation

in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

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58. The chart below details, as of 16 May 2008, the end of the Committee's fortieth session, the state of the replies with respect to follow-up.

3/ *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44 (A/62/44).*

**Follow-up procedure to conclusions and recommendations
from May 2003 to May 2008**

...

Thirty-second session (May 2004)

State party	Information due in	Information received	Action taken
<p>...</p> <p>New Zealand</p>	<p>May 2005</p>	<p>9 June 2005 CAT/C/CR/32/4/RESP/1</p> <p>19 December 2006 CAT/C/NZL/CO/3/Add.2</p>	<p>Request for further clarification</p>

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CAT, A/64/44 (2009)

IV. FOLLOW UP ON CONCLUDING OBSERVATIONS ON STATES PARTIES REPORTS

53. In this chapter, the Committee updates its findings and activities that follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the recommendations of its Rapporteur on follow-up to concluding observations. The Rapporteur's activities, responses by States parties, and the Rapporteur's views on recurring concerns encountered through this procedure are presented below, and updated through 15 May 2009, following the Committee's forty-second session.

54. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. It also presented information on the Committee's experience in receiving information from States parties from the initiation of the procedure in May 2003 through May 2009.

55. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. As in the past, Ms. Gaer presented a progress report to the Committee in May 2009 on the results of the procedure.

56. The Rapporteur has emphasized that the follow up procedure aims "to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment", as articulated in the preamble to the Convention. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific actions designed to enhance each State party's ability to implement the measures necessary and appropriate to prevent acts of torture and ill-treatment, and thereby assists States parties in bringing their law and practice into full compliance with the obligations set forth in the Convention.

57. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information specifically for this procedure. Such follow-up recommendations are identified because they are serious, protective, and are considered able to be accomplished within one year. The States parties are asked to provide within one year information on the measures taken to give effect to its follow-up recommendations which are specifically noted in a paragraph near the end of the conclusions and recommendations on the review of the States parties' reports under article 19.

58. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-second session in May 2009, the Committee has reviewed 81 States for which it has identified follow up recommendations. Of the 67 States parties that were due to have submitted their follow up reports to the Committee by 15 May 2009, 44 had completed this requirement. As of 15 May 2009, 23 States had not yet supplied follow up information that had fallen due. The

Rapporteur sends reminders requesting the outstanding information to each of the States whose follow up information was due, but had not yet been submitted, and who had not previously been sent a reminder. The status of the follow-up to concluding observations may be found in the web pages of the Committee (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

59. The Rapporteur noted that 14 follow up reports had fallen due since the previous annual report. However, only 4 (Algeria, Estonia, Portugal and Uzbekistan) of these 14 States had submitted the follow up information in a timely manner. Despite this, she expressed the view that the follow up procedure had been remarkably successful in eliciting valuable additional information from States on protective measures taken during the immediate follow up to the review of the periodic reports. One State party (Montenegro) had already submitted information which was due only in November 2009. While comparatively few States had replied precisely on time, 34 of the 44 respondents had submitted the information on time or within a matter of one to four months following the due date. Reminders seemed to help elicit many of these responses. The Rapporteur also expressed appreciation to non governmental organizations, many of whom had also encouraged States parties to submit follow up information in a timely way.

60. Through this procedure, the Committee seeks to advance the Convention's requirement that "each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture ..." (art. 2, para. 1) and the undertaking "to prevent ... other acts of cruel, inhuman and degrading treatment or punishment ..." (art. 16).

61. The Rapporteur expressed appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow up information at all, she requests the outstanding information.

62. At its thirty eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties. These would be placed on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow up and also place them on its website (<http://www2.ohchr.org/english/bodies/cat/sessions.htm>).

63. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill treatment.

...

65. The chart below details, as of 15 May 2009, the end of the Committee's forty-second session, the state of the replies with respect to follow up.

Follow-up procedure to conclusions and recommendations from May 2003 to May 2009

...

Forty-second session (May 2009)

State party	Information due in	Information received	Action taken
...			
New Zealand	May 2010	-	
...			

Chapter IV. Follow-up to concluding observations on States parties' reports

65. In this chapter, the Committee updates its findings and activities that constitute follow-up to concluding observations adopted under article 19 of the Convention, in accordance with the procedure established on follow-up to concluding observations. The follow-up responses by States parties, and the activities of the Rapporteur for follow-up to concluding observations under article 19 of the Convention, including the Rapporteur's views on the results of this procedure, are presented below. This information is updated through 14 May 2010, the end of the Committee's forty-fourth session.

66. In chapter IV of its annual report for 2005-2006 (A/61/44), the Committee described the framework that it had developed to provide for follow-up subsequent to the adoption of the concluding observations on States parties reports submitted under article 19 of the Convention. In that report and each year thereafter, the Committee has presented information on its experience in receiving information on follow-up measures taken by States parties since the initiation of the procedure in May 2003.

67. In accordance with rule 68, paragraph 2, of the rules of procedure, the Committee established the post of Rapporteur for follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position. In November 2009 and May 2010, the Rapporteur presented a progress report to the Committee on the results of the procedure.

68. At the conclusion of the Committee's review of each State party report, the Committee identifies concerns and recommends specific measures to prevent acts of torture and ill-treatment. Thereby, the Committee assists States parties in identifying effective legislative, judicial, administrative and other measures to bring their laws and practice into full compliance with the obligations set forth in the Convention.

69. In its follow-up procedure, the Committee has identified a number of these recommendations as requiring additional information within one year. Such follow-up recommendations are identified because they are serious, protective and are considered able to be accomplished within one year. The States parties are asked to provide information within one year on the measures taken to give effect to the follow-up recommendations. In the concluding observations on each State party report, the recommendations requiring follow-up within one year are specifically identified in a paragraph at the end of the concluding observations.

70. Since the procedure was established at the thirtieth session in May 2003, through the end of the forty-fourth session in May 2010, the Committee has reviewed 95 reports from States parties for which it has identified follow-up recommendations. It must be noted that periodic reports of Chile, Latvia, Lithuania and New Zealand have been examined twice by the Committee since the establishment of the follow-up procedure. Of the 81 States parties that were due to have submitted their follow-up reports to the Committee by 14 May 2010, 57 had completed this

requirement. As of 14 May 2010, 24 States had not yet supplied follow-up information that had fallen due: Republic of Moldova, Cambodia, Cameroon, Bulgaria, Uganda, Democratic Republic of the Congo, Peru, Togo, Burundi, South Africa, Tajikistan, Luxembourg, Benin, Costa Rica, Indonesia, Zambia, Lithuania (to the 2009 concluding observations), Chad, Chile, Honduras, Israel, New Zealand, Nicaragua and the Philippines.

71. The Rapporteur sends reminders requesting the outstanding information to each of the States for which follow-up information is due, but not yet submitted. The status of the follow-up to concluding observations may be found in the web pages of the Committee at each of the respective sessions. As of 2010, the Committee has established a separate web page for follow-up (<http://www2.ohchr.org/english/bodies/cat/follow-procedure.htm>).

72. Of the 24 States parties that did not submit any information under the follow-up procedure as of 14 May 2010, non-respondents came from all world regions. While about one-third had reported for the first time, two-thirds were reporting for a second, third or even fourth time.

73. The Rapporteur expresses appreciation for the information provided by States parties regarding those measures taken to implement their obligations under the Convention. In addition, she has assessed the responses received as to whether all the items designated by the Committee for follow-up (normally between three and six recommendations) have been addressed, whether the information provided responds to the Committee's concern, and whether further information is required. Each letter responds specifically and in detail to the information presented by the State party. Where further information has been needed, she has written to the concerned State party with specific requests for further clarification. With regard to States that have not supplied the follow-up information at all, she requests the outstanding information.

74. At its thirty-eighth session in May 2007, the Committee decided to make public the Rapporteur's letters to the States parties which are posted on the web page of the Committee. The Committee further decided to assign a United Nations document symbol number to all States parties' replies to the follow-up and also place them on its website.

75. Since the recommendations to each State party are crafted to reflect the specific situation in that country, the follow-up responses from the States parties and letters from the Rapporteur requesting further clarification address a wide array of topics. Among those addressed in the letters sent to States parties requesting further information have been a number of precise matters seen as essential to the implementation of the recommendation in question. A number of issues have been highlighted to reflect not only the information provided, but also the issues that have not been addressed but which are deemed essential to the Committee's ongoing work, in order to be effective in taking preventive and protective measures to eliminate torture and ill-treatment.

76. Among the Rapporteur's activities in the past year, have been the following: attending the inter-committee meetings in Geneva where follow-up procedures were discussed with members from other treaty bodies, and it was decided to establish a working group on follow-up; addressing the Committee on the Elimination of Discrimination against Women at its August 2009 meeting in New York concerning aspects of the follow-up procedure; assessing responses

from States parties and preparing follow-up letters to countries as warranted and updating the information collected from the follow-up procedure.

77. Additionally, the Rapporteur initiated a study of the Committee's follow-up procedure, beginning with an examination of the number and nature of topics identified by the Committee in its requests to States parties for follow-up information. She reported to the Committee on some preliminary findings, in November 2009 and later in May 2010, and specifically presented charts showing that the number of topics designated for follow-up has substantially increased since the thirty-fifth session. Of the 87 countries examined as of the forty-third session (November 2009), one to three paragraphs were designated for follow-up for 14 States parties, four or five such topics were designated for 38 States parties, and six or more paragraphs were designated for 35 States parties. The Rapporteur drew this trend to the attention of the members of the Committee and it was agreed in May 2010 that, whenever possible, efforts would henceforth be made to limit the number of follow-up items to a maximum of five paragraphs.

78. The Rapporteur also found that certain topics were more commonly raised as a part of the follow up procedure than others. Specifically, for all State parties reviewed since the follow-up procedure began, the following topics were most frequently designated:

Ensure prompt, impartial and effective investigation(s)	76 per cent
Prosecute and sanction persons responsible for abuses	61 per cent
Guarantee legal safeguards	57 per cent
Enable right to complain and have cases examined	43 per cent
Conduct training, awareness-raising	43 per cent
Ensure interrogation techniques in line with the Convention	39 per cent
Provide redress and rehabilitation	38 per cent
End gender-based violence, ensure protection of women	34 per cent
Ensure monitoring of detention facilities/visit by independent body	32 per cent
Carry out data collection on torture and ill-treatment	30 per cent
Improve condition of detention, including overcrowding	28 per cent

79. In the correspondence with States parties, the Rapporteur has noted recurring concerns which are not fully addressed in the follow-up replies and her concerns (illustrative, not comprehensive) have been included in prior annual reports. To summarize them, she finds there is considerable value in having more precise information being provided, e.g. lists of prisoners, details on deaths in detention and forensic investigations.

80. As a result of numerous exchanges with States parties, the Rapporteur has observed that there is need for more vigorous fact-finding and monitoring in many States parties. In addition, there is often inadequate gathering and analysing of police and criminal justice statistics. When the Committee requests such information, States parties frequently do not provide it. The Rapporteur further considers that conducting prompt, thorough and impartial investigations into allegations of abuse is of great protective value. This is often best undertaken through unannounced inspections by independent bodies. The Committee has received documents, information and complaints about the absence of such monitoring bodies, the failure of such bodies to exercise independence in carrying out their work or to implement recommendations for improvement.

81. The Rapporteur has also pointed to the importance of States parties providing clear-cut instructions on the absolute prohibition of torture as part of the training of law-enforcement and other relevant personnel. States parties need to provide information on the results of medical examinations and autopsies, and to document signs of torture, especially including sexual violence. States parties also need to instruct personnel on the need to secure and preserve evidence. The Rapporteur has found many lacunae in national statistics, including on penal and disciplinary action against law-enforcement personnel. Accurate record keeping, covering the registration of all procedural steps of detained persons, is essential and requires greater attention. All such measures contribute to safeguard the individual against torture or other forms of ill-treatment, as set forth in the Convention.

82. The chart below details, as of 14 May 2010, the end of the Committee's forty-fourth session, the replies with respect to follow-up. This chart also includes States parties' comments to concluding observations, if any.

Follow-up procedure to concluding observations from May 2003 to May 2010

...

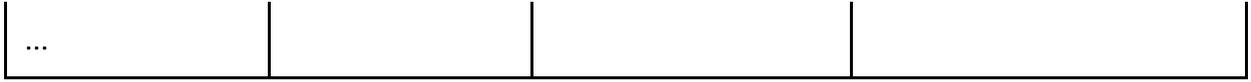
Thirty-second session (May 2004)

<i>State party</i>	<i>Information</i>	<i>Information received (including</i>	<i>Action taken</i>
...			
New Zealand	May 2005	9 June 2005 CAT/C/CR/32/4/RESP/1 Comments: 19 December 2006 CAT/C/NZL/CO/3/Add.2	Request for further clarifications
...			

...

Forty-second session (May 2009)

State party	Information due in	Information received	Action taken
...			
New Zealand	May 2010	-	



Follow-up - State Reporting
ii) Action by State Party

CAT CAT/C/CR/32/4/RESP .1 (2005)

Comments by the Government of New Zealand to the conclusions and recommendations of the Committee against Torture

[9 June 2005]

1. The Committee Against Torture considered New Zealand's third periodic report under the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT/C/49/Add.3) at its 604th, 607th and 616th meetings, held on 11, 12 and 19 May 2004 (CAT/C/SR.604, 607 and 616). The Committee requested that New Zealand provide, within one year, information on its response to the Committee's recommendations at 6(b), (c), (d) and (h). These recommendations and New Zealand's responses are set out below.

2. The Committee may also be interested to know that New Zealand is making good progress towards being able to ratify the Optional Protocol to the Convention Against Torture. A bill making the necessary amendments to the Crimes of Torture Act is being drafted in consultation with affected agencies. However, the Government has yet to make a decision on timing for the bill's introduction to Parliament.

"The Committee recommends that the State party:

(b) Ensure at all times that the fight against terrorism does not lead to a breach of the Convention and impose undue hardship on asylum seekers, and establish a time limit for the detention of and restrictions on asylum seekers;"

Counter-terrorism and human rights

3. New Zealand recognises the importance of respecting human rights and fundamental freedoms in all security and counter-terrorism efforts. In the international setting, New Zealand has co-sponsored resolutions on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in the United Nations Commission on Human Rights (CHR) and the General Assembly Third Committee. At the 61st CHR, New Zealand supported the proposal to appoint a Special Rapporteur on the subject.

Treatment of asylum seekers

4. Accordingly, in the domestic sphere, New Zealand continues to treat all refugee status claimants in a manner consistent with its international obligations, including under the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention Relating to the Status of Refugees.

5. The Immigration Act 1987 contains various discretionary powers that may be exercised by immigration officers in relation to non-New Zealand citizens or residents arriving at the border, including those claiming refugee status. The full range of responses is:

- to release into the community with a permit
- to release into the community without a permit
- to detain for up to 48 hours for the purpose of releasing into the community on conditions
- to detain for up to 48 hours for the purpose of obtaining a warrant of commitment to detain further at an approved premises, like the Mangere Accommodation Centre
- to detain for up to 48 hours for the purpose of obtaining a warrant of commitment from a District Court to detain further at a penal institution.

6. In accordance with Article 31 of the Refugee Convention, any restriction on liberty must be necessary and commensurate with the risks presented by the refugee status claimant. All restrictions are subject to periodic administrative review, and detention at approved premises or at a penal institution is subject to both administrative and judicial review, the first taking place 28 days after the initial decision to detain and thereafter on a weekly basis. It is for the judge to consider the interests of the State and the rights of the refugee status claimant and to decide, within the law, whether and what sort of detention is necessary. Further, in each case, the Crown must advance and establish the necessity of the proposed detention. Regard is had not only to the Refugee Convention, but also to the New Zealand Bill of Rights Act 1990, which protects against arbitrary detention and unreasonable seizures of the person.

Time limits on detention

7. A time limit is not needed or appropriate because a judge regularly reviews detention beyond 28 days and will order such detention to continue only where it is necessary. The length of time that an individual has been subject to detention is simply one factor to be considered by the judge, together with all of the other circumstances of an individual's case, in determining whether detention should continue and, if so, whether it should be at an approved premises or at a penal institution.

"(c) Immediately take steps to review the legislation relating to the security risk certificate in order to ensure that appeals can effectively be made against decisions to detain, remove or deport a person, extend the time given to the Minister of Immigration to adopt a decision, and ensure full respect of article 3 of the Convention;"

Review of security risk certificate legislation

8. New Zealand is reviewing legislation relating to security risk certificates. The concerns the Committee has raised are being examined during that review. As the review is ongoing, New Zealand is not yet able to indicate what any new legislation might look like. That said, New Zealand attaches great importance to its international obligations and fully expects any new legislation to conform with those obligations.

Rights of appeal

9. The present scheme, while necessarily safeguarding sensitive security information from disclosure, nonetheless provides effective rights of appeal against decisions made by reference to security risk certificates at each stage.

10. First, the certificate itself can be challenged by application for review to the Inspector-General of Intelligence and Security, an independent authority of high judicial standing. In undertaking a review, the Inspector-General reconsiders whether the person subject to the certificate fulfils the criteria of security risk, whether the information upon which the certificate is based is credible and whether all of that information is properly regarded as security information that cannot be disclosed. The Inspector-General has full access to security information. The Inspector-General is required to provide a reasoned decision, so far as that is possible without disclosing sensitive security information, and is in turn subject to appeal on legal grounds to the Court of Appeal.

11. The Inspector-General is currently undertaking the first review conducted under the present scheme. In the course of that review, the Inspector-General has directed that the applicant receive a summary of the grounds upon which that person is regarded as a security risk and has appointed a senior barrister as an independent advocate for the applicant. The independent advocate has access to the security information held by the Inspector-General.

12. Secondly, any decision to detain persons who are subject to a security risk certificate is open to challenge under the present scheme both by review of the certificate itself and by application to the courts for release on bail. Bail has been granted to the one person currently subject to a security risk certificate pending the outcome of the Inspector-General's review.

13. Lastly, any decision to remove or deport persons who are subject to a security risk certificate is open to challenge by application to the courts for review. As was noted in New Zealand's response to question (i) of the Committee's supplementary questions on 12 May 2004, the scope of inquiry in such review proceedings is very broad, particularly where issues of fundamental human rights arise.

Time for decision

14. The three-day period to which the question refers relates to the decision of the Minister of Immigration to place reliance upon the security risk certificate. The separate question of whether a person subject to a security risk certificate is protected against removal or deportation by article 3(1) of the Convention or other human rights obligations need not be determined within this time limit.

Ensuring respect for article 3(1)

15. As the New Zealand government has previously advised, it is committed to compliance with article 3(1) in all immigration decisions. While not currently implemented expressly in legislation, human rights obligations such as article 3(1) are mandatory factors in immigration decision-making and will be enforced as such by the New Zealand courts.

- (d) Reduce the time and improve the conditions of non-voluntary segregation (solitary confinement) which can be imposed on asylum seekers, prisoners and other detainees;

Non-voluntary segregation of prisoners

16. Since New Zealand last reported to the Committee in May 2004, the Corrections Act 2004 (the Act) and the Corrections Regulations 2005 (the Regulations) have both been enacted to govern the Department of Corrections (Corrections). The Act and Regulations are scheduled to come into force on 1 June 2005.

17. With the enactment of the Act and Regulations, the United Nations Standard Minimum Rules for the Treatment of Prisoners are enshrined into New Zealand's domestic legislation.

18. The statutory framework for segregation is set down in sections 57 - 61 of the Act. Prisoners may be segregated from the mainstream prison population only if it is for the security, good order and safety of the prison (non-voluntary segregation), or for the purpose of protective custody or medical oversight of a prisoner. The new Act continues to provide for a sanction of cell confinement for a proven disciplinary offence.

19. Non-voluntary segregation is authorised under section 58(1) of the Act, which states that the prison manager may direct that the opportunity of a prisoner to associate with other prisoners be restricted or denied if, in the opinion of the manager

- a) the security or good order of the prison would otherwise be endangered or prejudiced, or
- b) the safety of another prisoner or another person would otherwise be endangered.

20. The new Act prescribes that the decision-making process be independently monitored at a local and national level, ensuring greater transparency of the segregation system. Section 58(3)(a) of the Act states that a direction to segregate must be revoked by the prison manager if there ceases to be any justification for continuing to restrict or deny the opportunity of the prisoner to associate with other prisoners. The Chief Executive of Corrections¹ or a Visiting Justice may also revoke the segregation direction at any time.

21. Visiting Justices' powers to make segregation decisions enhance the level of independent scrutiny and monitoring safeguards on the segregation system. Visiting Justices are appointed by the Governor-General of New Zealand, upon the recommendation of the Minister of Justice. A Visiting Justice may be any District Court Judge, Justice of the Peace, or a Barrister or Solicitor of the High Court. Visiting Justices have a number of powers in respect of each prison including, among others, the authority to visit and inspect prisons; examine the treatment and conduct of prisoners; inquire into all prisoner abuses or alleged abuses; and inquire into any matter referred to him or her by the chief executive.

22. The new Act provides that a non-voluntary segregation order automatically expires after 14 days unless, before it expires, the chief executive directs that it continues in force. In the instance that it continues to be in force, the chief executive is required to review the decision at one monthly intervals. After three months the order must expire, unless a Visiting Justice directs that it continue in force. If a Visiting Justice directs that the non-voluntary segregation continue in force, then the Visiting Justice must review his or her decision at intervals of not more than three months.

23. Protective custody may occur at the prisoner's request (section 59(1)(a)), or when the prison manager considers it necessary for the prisoner's safety (section 59(1)(b)). In the latter case, the order may be revoked at any time by the chief executive, or it will expire after 14 days unless the chief executive directs that it continue in force. If there is a direction that the protective custody continues in force, then that decision must be reviewed by the chief executive at intervals of not more than 3 months.²

24. The Act also ensures that any segregated prisoner retains his or her right to complain to an inspector or to the Office of the Ombudsman at any time regarding segregation decision or conditions.

Prison conditions

25. It should be noted that New Zealand does not consider non-voluntary segregation in prisons to be the equivalent of solitary confinement. This is because segregated prisoners do not, in general, experience a lesser standard of prison conditions compared to other accused or convicted prisoners, or lose any of their minimum entitlements, and in most instances prisoners will have opportunities to associate with other segregated prisoners.

26. Prison conditions applicable to all prisoners, including those who are segregated, are described in sections 70-82 of the new Act. These provisions prescribe the minimum standards of unlock time for prisoners to exercise, bedding, a nutritious diet, visits from family, medical treatment, mail to and from prisoners, telephone calls, and religious, spiritual and cultural needs. Corrections' maintenance of humane prison conditions is reflected by the elevation of these provisions from the Corrections Regulations 2002 to the new Act, and their alignment with the standards set out by the United Nations Standard Minimum Rules for the Treatment of Prisoners.

27. In addition, section 69 of the Act describes the minimum entitlements of every prisoner, regardless of whether they are segregated or not, and the circumstances that any minimum entitlements can be restricted or denied.³ Section 69(2) provides that minimum entitlements can be denied in particular circumstances, such as if there is an emergency in the prison, or where security of the prison or the health and safety of a person is threatened. Section 69(4)(b) prescribes that only the minimum entitlement of access to information and education may be denied if a prisoner is segregated for the purposes of security, good order and safety, or protective custody.

28. Regulation 62 further clarifies that the prison conditions and treatment described in the Act are also to be applied to voluntary and non-voluntary segregated prisoners. The regulation

states that a segregated prisoner, so far as practicable in the circumstances and if it is not inconsistent with the purposes of the segregation direction, must be detained under the same conditions as if he or she were not subject to a segregation direction. The regulation also prescribes that segregated prisoners must not be denied access to activities consistent with their management plan, or to his or her authorised property because they are subject to a segregation direction.

29. Regulations 57-59 ensure that all segregated prisoners (excluding those segregated for concealing an unauthorised item internally) are held in standard cell accommodation that has the same facilities and items as cells for mainstream prisoners, unless it is not practicable to do so and the chief executive approves otherwise. Schedule 2 of the regulations prescribes the items and cell facilities for segregation purposes.⁴

Immigration detainees and asylum seekers in prison

30. No detainee, including immigration detainees and asylum seekers, will be placed on non-voluntary segregation, unless it is for the security, good order and safety of the prison (non-voluntary segregation), for the protective custody of the prisoner (voluntary or non-voluntary segregation), or for medical oversight of a prisoner. Any detainee may request that they be segregated from other prisoners at any time.

31. The new Regulations require that Immigration Act detainees and asylum seekers be held under the same regime and have the same entitlements as accused prisoners⁵ to ensure their safety and welfare. The regulations require that accused prisoners be kept separate from convicted prisoners, and that accused prisoners receive the same standard of treatment, or a higher standard of treatment, compared to convicted prisoners.⁶

"(h) Inform the Committee about the results of the action taken in response to the concern expressed by the Ombudsman regarding investigations of assaults by prison staff on inmates."

32. In 2002, the Ombudsman expressed his concern about the length of time taken to install video cameras in volatile prison units, and the delays in reporting and investigating allegations of assault by staff on prisoners. The Ombudsman identified the difficulties in investigating allegations of assault in an environment where there are rarely independent witnesses to corroborate or refute allegations. The Ombudsman recommended that Corrections implement a comprehensive closed circuit television (CCTV) system in prisons to assist investigations of prisoner allegations of assaults by prison staff.

Investigation of assaults

33. In January 2005, Corrections reviewed its operational policy on how allegations of staff assault, abuse, control and restraint, and the use of force must be managed. The new policy provides additional details to staff on the procedures that must be carried out if a prisoner allegation that involves any member of staff is received. The policy states that internal investigations are to be carried out in a timely manner (within one month) to ensure that stress on

the staff and prisoners who are awaiting the outcome is reduced, and to maintain Corrections' credibility in terms of the humane containment of prisoners.

34. For all allegations relating to control and restraint and use of force incidents, prisoners are provided with the opportunity to lay a complaint about the incident with Police. Although these incidents are not subject to a formal internal investigation, prison managers are required to review these incidents as soon as possible after they have occurred.

35. The Corrections Act 2004 extends and strengthens the statutory provision for the internal complaints system. The Penal Institutions Regulations 2000 previously required each prison to have an internal complaints system, and to set out the objectives to be met by such systems. The Act elevates these requirements into the primary legislation, and extends the requirements to cover community work centres and probation offices in addition to prisons. Similarly, the right of access to the internal complaints system is extended beyond current prisoners to cover any persons who are or were under the control or supervision of Corrections.

36. Section 156(3) of the Act states that if an inspector investigates a complaint, the inspector must conduct the investigation reasonably promptly, and must inform the complainant and the other persons concerned promptly after the conclusion of the investigation and in a manner that the inspector considers appropriate, of:

- a) the result of the investigation; and
- b) any further action that the inspector proposes to take in respect of the complaint.

37. Corrections Regulations 2005 also add further requirements to ensure that prisoner complaints are dealt with fairly and in a timely manner. Regulation 162 requires that all complainants are to be notified within 5 working days in writing and orally, if practicable, that their complaint was received. Regulation 165(1) ensures that complainants are provided with the opportunity for an interview within 10 working days of the date on which the complaint is lodged. Complainants must also be provided with updates at monthly intervals on what progress is being made in investigating and dealing with their complaint.

38. Office of the Ombudsmen's role in managing prisoner complaints provides an important external complaint mechanism. The Office of the Ombudsman has a strong commitment to the investigation of complaints from prisoners. The new Act requires that the Chief Executive of Corrections and the Chief Ombudsman establish a formal protocol to recognise and explain their co-operative working relationship. The first protocol was established in 2000. The protocol does not limit the powers of the Ombudsmen under the Ombudsmen Act 1975.

Auckland East Regional Prison

39. Corrections acknowledges that on some occasions there have been unacceptable reporting/investigation delays where the allegations involve staff. Corrections recognises that such delays are undesirable because they have the potential to compromise the quality of future investigations, and they threaten the credibility and transparency of the complaints system.

The reporting delays previously experienced at Auckland East Regional Prison, which formed the basis for the Ombudsman's concerns, have been addressed by the implementation of a more robust regional tracking and monitoring regime for complaints.

Use of CCTV in prisons

40. The installation of CCTV covering recreation or common areas in a prison wing has become a facility standard for all new prisons.⁷ As funding allows Corrections intends to upgrade all existing prisons to also meet this standard.

41. Work to install CCTV cameras in Auckland East Regional Prison, New Zealand's only maximum security facility, commenced mid-2004, with funding of \$NZ 1.1 million allocated for this purpose. As at March 2005, this work was ongoing as it was necessary to expand the project scope to increase image storage time and enhance image clarity.

42. Additional operational policy and procedures on emergency response management were recently introduced to assist staff. The policy requires that prison staff are videotaped, where practicable, when any emergency response related use of force events or major incidents occur in prisons.

1/ Or his designated National Office delegate (usually the General Manager or Assistant General Manager, Public Prisons Service).

2/ Section 58(3)(d) and (e) of the Corrections Act 2004.

3/ Prisoners' minimum entitlements include the following provisions: physical exercise, a bed and bedding, food and drink, access to private/statutory visitors and legal advisers, medical treatment, the ability to send and receive mail, make outgoing telephone calls, exercise any right to communicate as outlined by the regulations, and to access information and education.

4/ Mandatory items/features include those such as natural and artificial lighting, a window, appropriate heating, raised sleeping platform, fresh or conditioned air. Other items include running water, intercom, an alarm or call button, and a toilet.

5/ Section 184 of the Corrections Regulations 2005.

6/ Section 185 of the Corrections Regulations 2005.

7/ New Zealand is planning to open four new prisons between March 2005 and 2007: Northland Region Corrections Facility (NRCF), which opened on 8 March 2005, Auckland Women's Corrections Facility, Spring Hill Corrections Facility and Otago Region Corrections Facility.