

- ▶ take measures to improve the economic empowerment of women and reduce their dependence on men and their vulnerability to domestic violence;
- ▶ introduce awareness-raising programmes for health professionals, the police and the judiciary to improve their understanding of the problem that violence poses for women;
- ▶ introduce measures and programmes, including affirmative action, to increase women's participation at all levels of the judiciary;
- ▶ endeavour to bring about legal change with regard to land ownership by women, especially in rural areas;
- ▶ address the issue of polygamous marriages and, through the Department of Women Affairs, introduce an intensive programme to discourage polygamy;
- ▶ ensure, as soon as feasible, the registration of all customary marriages so as to ensure that women can enjoy all rights that accrue as a result of marriage;
- ▶ recognizing the need to sustain traditional courts, ensure that these courts comply with the principles of the Convention in all respects;
- ▶ adopt the necessary measures to review the laws containing punitive measures against women who have undergone illegal abortions;
- ▶ continue its collaboration with non-governmental organizations in implementing the Convention and reporting under it; and
- ▶ encourage the political participation of women and take all appropriate measures in that regard.

Torture

Acceded: 28 November 1994.

Namibia's second periodic report is due 27 December 1999.

Namibia's initial report (CAT/C/28/Add.2) was considered by the Committee at its April/May 1997 session. The report prepared by the government includes information on, *inter alia*: article 8 of the Constitution which prohibits torture; the justiciable Bill of Rights; measures and laws related to extradition and expulsion; training for law enforcement, defence and prison service personnel; medical services in prisons; safety checks and other procedures in police detention and prisons; police conduct and misconduct; complaints, investigations, proceedings and compensation; rules of evidence and the admissibility of "confessions" obtained through pressure. The report also includes summary commentary on a number of individual cases illustrating violations, complaints, investigations and the results of proceedings, where undertaken.

The Committee's concluding observations and comments (CAT/C/XVIII/CRP.1/Add.4), welcomed the government's policy of allowing non-governmental organizations and diplomatic officers regular access to prisons and prisoners and permitting local non-governmental organizations to operate freely and deal openly with a variety of human rights issues. The Committee expressed satisfaction with the explicit proclamation in the Namibian Constitution prohibiting torture or cruel, inhuman or degrading treatment or punishment and the stipulation that testimony obtained under torture is not

admissible as evidence in a Namibian court of law and welcomed improvements in Namibia's asylum and refugee policy which now allows asylum-seekers from other African countries to enter and grants them refugee status.

The Committee acknowledged that the legacy of the pre-independence period continues to hinder efforts fully to harmonize the legal order with the requirements of international humanitarian law instruments but also emphasized that no exceptional circumstances can ever justify failure to comply with certain terms of the Convention against Torture.

Among the subjects of concern identified by the Committee were: the failure to integrate the specific definition of the crime of torture in the Convention into penal legislation, making it impossible for the courts to adhere to the principle of legality (*nullum crimen, nulla poena sine lege previa*) and to article 4 of the Convention; pre-trial detention extending for up to one year because of the lack of judicial personnel; acknowledging that torture and physical assaults by the Namibian police have been reduced considerably since independence, the fact that treatment which falls under the notion of torture, cruel, inhuman or degrading treatment or punishment still occurs in certain areas of the country; the failure in many cases to conduct prompt and impartial investigations and to prosecute those responsible for past and present acts of torture or cruel, inhuman or degrading treatment; the failure consistently to institute disciplinary proceedings against public officials responsible for acts of torture or ill-treatment; the lack of legal instruments to deal specifically with compensating victims of torture or other ill-treatment; the inadequacy and ineffectiveness of existing procedures for obtaining redress, compensation and rehabilitation; and, limitations on the right to redress and compensation to the victim of torture, thereby excluding the same standing being given to a deceased victim's dependants, in violation of article 14 (1) of the Convention.

The Committee recommended that the government:

- ▶ enact a law defining the crime of torture in terms of article 1 of the Convention and legally integrate this definition into the Namibian substantive and procedural criminal law system;
- ▶ following on the first point, take into account: (a) the need to define the offence of torture as a specific offence committed by or at the instigation of or with the consent of a public official (*delictum proprium*); (b) the special intent to extract a confession or other information, to arbitrarily punish, to intimidate, to coerce or to discriminate; (c) the need to legislate for complicity in torture and attempts to commit torture as equally punishable; (d) the need to exclude the legal applicability of all justification in cases of torture; (e) the need procedurally to exclude all evidence obtained by torture in criminal and in all other proceedings except in proceedings against the perpetrator of torture; and (f) the need to legislate for and to enforce the prompt and impartial investigation into any substantiated allegations of torture;
- ▶ enact laws, particularly prohibiting torture, as required under the Convention against Torture and other human rights agreements binding on Namibia, in fields that are not yet regulated;