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Sixty-first session

Official Records

Corrigendum

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Human Rights Committee

Report on the eighty-fifth, eighty-sixth and eighty-seventh sessions
(17 October-3 November 2005, 13-31 March 2006 and 10-28 July 2006)

Corrigendum

Cover page and page i

Under Official Records read Sixty-first session

Pages 60 and 61, paragraph (16)

Replace text by the following:

(16) The Committee notes with concern the State party's restrictive interpretation of article 7 of the Covenant according to which it understands (a) that the obligation not to subject anyone to treatment prohibited by article 7 of the Covenant does not include an obligation not to expose them to such treatment by means of transfer, rendition, extradition, expulsion or refoulement; (b) that in any case, it is not under any other obligation not to deport an individual who may undergo cruel, inhuman or degrading treatment or punishment other than torture, as the State party understands the term; and (c) that it is not under any international obligation to respect a non-refoulement rule in relation to persons it detains outside its territory. It also notes with concern the "more likely than not" standard it uses in non-refoulement procedures. The Committee is concerned that in practice the State party appears to have adopted a policy to send, or to assist in the sending of, suspected terrorists to third countries, either from the United States of America or other States' territories, for purposes of detention and interrogation, without the appropriate safeguards to prevent treatment prohibited by the Covenant. The Committee is moreover concerned by numerous well-publicized and documented allegations that persons sent to third countries in this way were indeed detained and interrogated while receiving treatment grossly violating the prohibition contained in article 7, allegations that the State party did not contest. Its concern is deepened by the so

far successful invocation of State secrecy in cases where the victims of these practices have sought a remedy before the State party's courts (e.g. the cases of *Maher Arar v. Ashcroft* (2006) and *Khaled Al-Masri v. Tenet* (2006)). (article 7)

The State party should review its position, in accordance with the Committee's general comments No. 20 (1992) on article 7 and No. 31 (2004) on the nature of the general legal obligation imposed on States parties. The State party should take all necessary measures to ensure that individuals, including those it detains outside its own territory, are not returned to another country by way, of inter alia, their transfer, rendition, extradition, expulsion or refoulement if there are substantial reasons for believing that they would be in danger of being subjected to torture or cruel, inhuman or degrading treatment or punishment. The State party should conduct thorough and independent investigations into the allegations that persons have been sent to third countries where they have undergone torture or cruel, inhuman or degrading treatment or punishment, modify its legislation and policies to ensure that no such situation will recur, and provide appropriate remedy to the victims. The State party should exercise the utmost care in the use of diplomatic assurances and adopt clear and transparent procedures with adequate judicial mechanisms for review before individuals are deported, as well as effective mechanisms to monitor scrupulously and vigorously the fate of the affected individuals. The State party should further recognize that the more systematic the practice of torture or cruel, inhuman or degrading treatment or punishment, the less likely it will be that a real risk of such treatment can be avoided by such assurances, however stringent any agreed follow-up procedures may be.

Page 164, penultimate row, last column, second line

For CCPR/C/USA/CO/3 substitute CCPR/C/USA/CO/3/Rev.1
