**Attachment 2. Our Right**

As South Africa is a co-signer to the Treaties and Protocols of the Geneva Convention, we, the people of South Africa, therefore have the right to call upon the implementation of the agreements as set out therein to apply to us.

We are calling upon our rights:

1. as specified in the Treaties and Protocols of the Geneva Convention with reference to the International Criminal Court, and discussed in Section A of this document;
2. as specified by the Geneva Convention Agreement against Torture on February 4, 1985, which was open for signatories at United Nations Headquarters in New York, and discussed in Section B of this document; and
3. as specified in the Constitution of South Africa dated 1994, as discussed in Section C of this document.

Although warfare has changed dramatically since the Geneva Conventions of 1949, they are still considered the cornerstone of contemporary International Humanitarian Law. They protect combatants who find themselves hors de combat, and they protect civilians caught up in the zone of war. These treaties came into play for all recent international armed conflicts, including the War in Afghanistan (2001–present), the 2003 invasion of Iraq, the invasion of Chechnya (1994–present), and the 2008 War in Georgia.

Modern warfare continues to evolve, and the lines between combatants and civilians have blurred (for instance, the Sri Lankan Civil War, the Sudanese Civil War, and the Colombian Armed Conflict). Common Article 3 deals with these situations, supplemented by Protocol II (1977). These set out minimum legal standards that must be followed for internal conflicts. International tribunals, particularly the International Criminal Tribunal for the former Yugoslavia, have helped to clarify international law in this area. In the 1999 Prosecutor v. Dusko Tadic judgment, the International Criminal Tribunal for the Former Yugoslavia ruled that grave breaches apply not only to international conflicts, but also to internal armed conflict. Further, those provisions are considered customary international law, allowing war crimes prosecution by the United Nations and its International Court of Justice over groups that have signed and have not signed the Geneva Conventions.

**Section A. Our right**

**(i) As specified in the Treaties and Protocols of the Geneva Convention with reference to the International Court of Justice.**

In diplomacy, the term convention does not have its common meaning as an assembly of people. Rather, it is used in diplomacy to mean an international agreement, or treaty. The first three Geneva Conventions were revised and expanded in 1949, and the fourth was added at that time.

* First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1864
* Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 1906
* Third Geneva Convention relative to the Treatment of Prisoners of War, 1929

Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949

The whole set is referred to as the "Geneva Conventions of 1949" or simply the "Geneva Convention".

The Geneva Conventions comprise out of four treaties, and three additional protocols that establish the standards of international law for the humanitarian treatment of the victims of war. It extensively defined the basic rights of prisoners (civil and military) during war; established protections for the wounded; and established protections for the civilians in and around a war zone.

**The Geneva** **Conventions are about people in war and not the ammunition used.**

Modern armed conflicts were inflicting an increasingly higher toll on civilians, which brought the need to provide civilian persons and objects with tangible protections in time of combat, thus bringing a much needed update to the Hague Conventions of 1899 and 1907. In light of these developments, two Protocols were adopted in 1977 that extended the terms of the 1949 Conventions with additional protections.

The Geneva Conventions comprise rules that apply in times of armed conflict and seek to protect people who are not or are no longer taking part in hostilities, for example:

Wounded or sick fighters

Prisoners of war

Civilians

Medical and religious personnel

**Application**

The Geneva Conventions apply at times of war and armed conflict to governments who have ratified its terms. The details of applicability are spelled out in Common Articles 2 and 3.

When the Geneva Conventions apply, governments have surrendered some of their national sovereignty by signing these treaties.

When the Geneva Conventions were updated in 1949 after the Second World War, delegates sought to define certain minimum humanitarian standards to situations that had all the characteristics of war, without being an international war.

These negotiations resulted in Article 3, common to all four of the basic treaties of the Geneva Conventions of 1949.

Common Article 3 applies to armed conflicts that are not of an international character, but that are contained within the boundaries of a single country. It provides limited protections to victims, including:

Persons taking no active part in hostilities should be treated humanely (including military persons who have ceased to be active as a result of sickness, injury, or detention).

The wounded and sick shall be collected and cared for.

Of particular interest to our case is the:

**Common Article 3 relating to Non-International Armed Conflict**

This article states that the certain minimum rules of war apply to armed conflicts that are not of an international character, but that are contained within the boundaries of a single country. The applicability of this article rests on the interpretation of the term armed conflict. For example it would apply to conflicts between the Government and rebel forces, or between two rebel forces, or to other conflicts that have all the characteristics of war but that are carried out within the confines of a single country.

A handful of individuals attacking a police station would not be considered an armed conflict subject to this article, but only subject to the laws of the country in question.

The provisions contained within Article 3 and additionally within the language of Protocol II states that:

Persons taking no active part in hostilities, including military persons who have ceased to be active as a result of sickness, injury, or detention, should be treated humanely and that the following acts are prohibited:

* violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
* taking of hostages;
* outrages upon personal dignity, in particular humiliating and degrading treatment; and
* The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
* The wounded and sick shall be collected and cared for.

**Enforcement authority of the United Nations Security Council**

The final international tribunal for all issues related to the Geneva Conventions and other treaties is the United Nations Security Council. As a charter, the UN Charter is a constituent treaty, and all members are bound by its articles. The UN Charter's Article 25 and others require that obligations to the United Nations prevail over all other treaty obligations. The UNSC rarely invokes its authority regarding the Geneva Conventions and so most issues are resolved by regional treaties or by national law.

**Protecting powers**

The term protecting power has a specific meaning under these Conventions. A protecting power is a state that is not taking part in the armed conflict, but that has agreed to look after the interests of a state that is a party to the conflict. The protecting power is a mediator enabling the flow of communication between the parties to the conflict. The protecting power also monitors implementation of these Conventions, such as by visiting the zone of conflict and prisoners of war. The protecting power must act as an advocate for prisoners, the wounded, and civilians.

**Grave breaches**

Not all violations of the treaty are treated equally. The most serious crimes are termed grave breaches, and provide a legal definition of a war crime.

Grave breaches of the Third and Fourth Geneva Conventions include the following acts if committed against a person protected by the convention:

* wilful killing, torture or inhumane treatment, including biological experiments
* wilfully causing great suffering or serious injury to body or health
* compelling someone to serve in the forces of a hostile power
* Wilfully depriving someone of the right to a fair trial if accused of a war crime.

Also considered grave breaches of the Fourth Geneva Convention are the following:

* taking of hostages
* extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly
* Unlawful deportation, transfer, or confinement.

Nations who are party to these treaties must enact and enforce legislation penalizing any of these crimes. Nations are also obligated to search for persons alleged to commit these crimes, or ordered them to be committed, and to bring them to trial regardless of their nationality and regardless of the place where the crimes took place.

The principle of universal jurisdiction also applies to the enforcement of grave breaches when the UN Security Council asserts its authority and jurisdiction from the UN Charter to apply universal jurisdiction. The UNSC did this via the International Criminal Court when they established the International Criminal Tribunal for Rwanda and the Yugoslavia to investigate and/or prosecute alleged violations.

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.
Furthermore, we wish to draw attention upon the following Articles stipulated in the Geneva Convention Peace Treaty, as follows:

**Article 9:**

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

**Article 12:**

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

**Protect civilians including through empowering UN peacekeepers**

From 2000 onwards, the UN Security Council has frequently expanded the duties given to UN peacekeepers so that they can physically protect civilians who are threatened with violence. This capacity is however limited in practice with regard to the available resources.

Today, UN peacekeeping missions regularly: monitor and report violations of humanitarian, human rights and criminal laws;

Help to establish effective arrangements for investigating and prosecuting serious violations of the law;

Disarm and demobilize fighters and help to reintegrate them into the community;

Enforce special measures to protect women and girls from violence, rape and other forms of sexual violence;

Report on and work to prevent sexual abuse and exploitation of women by humanitarian workers and peacekeepers;

Establish systems to monitor the media and reporting of any “hate media”;

Take steps to stop messages, including in the broadcast media, inciting people to genocide, crimes against humanity or other violations of international humanitarian law.

**Protected Groups**:

The law protects four groups - national, ethnical, racial or religious groups.

A national group means a set of individuals whose identity is defined by a common country of nationality or national origin.

An ethnical group is a set of individuals whose identity is defined by common cultural traditions, language or heritage.

A racial group means a set of individuals whose identity is defined by physical characteristics.

A religious group is a set of individuals whose identity is defined by common religious creeds, beliefs, doctrines, practices, or rituals.

Usually people are born into these four groups. These four groups share the common characteristic that individuals are most often born into the group. While some individuals may change nationality or religion - or even adopt a new cultural, ethnic or racial identity - usually people do not choose their group identity. In genocide people are targeted for destruction not because anything they have done, but because of whom they are.

Group identity is often imposed by perpetrators. Perpetrators of genocide frequently make group categories more rigid or create new definitions which impose group identity on individuals, without regard to peoples’ individual choices.

**Laws alone are not enough: ending the culture of “impunity”**

If the criminal law is to be effective, it must deter people from committing crimes. For that to happen, those who do commit such crimes must be brought to justice and be seen to pay a price for their acts.

In 1949, following the close of the Nuremberg Trials, which tried and punished the Nazis who played key roles in the Holocaust in Europe, there was no international court with the power to try individuals suspected of acts of genocide or crimes against humanity.

Several courts were set up by the UN to prosecute those responsible for the genocides in Srebrenica, Bosnia and Rwanda and the horrors carried out in the war in Sierra Leone (1991-2002) and in Cambodia (1975 - 1979). The International Criminal Tribunal for the former Yugoslavia (1993), the International Criminal Tribunal for Rwanda (1994), the Special Court for Sierra Leone (2000) and the Extraordinary Chambers in the Courts of Cambodia (2006) are now trying people suspected of committing crimes within those countries.

At the same time, the United Nations worked to establish the long-hoped-for International Criminal Court, which came into being in 2002. By 1 January 2007, 104 governments had ratified the Rome Statute, the Court’s founding document, with more than thirty others having signed but not yet ratified.

**International criminal law** is a body of international law designed to prohibit certain categories of conduct commonly viewed as serious atrocities and to make perpetrators of such conduct criminally accountable for their perpetration. Principally, it deals with genocide, war crimes, crimes against humanity as well as the War of aggression.

International criminal law is a subset of international law. As such, its sources are the same as those that comprise international law. The classical enumeration of those sources is in Article 38(1) of the 1946 Statute of the International Court of Justice and comprise: treaties, customary international law, general principles of law (and as a subsidiary measure judicial decisions and the most highly qualified juristic writings.)

**International Criminal Court**

The International Criminal Court commonly referred to as the ICC or ICCt, is a permanent tribunal to prosecute individuals for genocide, crimes against humanity, war crimes, and the crime of aggression (although it cannot currently exercise jurisdiction over the crime of aggression).

The court's creation perhaps constitutes the most significant reform of international law since 1945. It gives authority to the two bodies of international law that deal with treatment of individuals: human rights and humanitarian law.

It came into being on 1 July 2002—the date its founding treaty, the Rome Statute of the International Criminal Court, entered into force—and it can only prosecute crimes committed on or after that date. The court's official seat is in The Hague, Netherlands, but its proceedings may take place anywhere.

The court can generally exercise jurisdiction only in cases where the accused is a national of a state party, the alleged crime took place on the territory of a state party, or a situation is referred to the court by the United Nations Security Council. It is designed to complement existing national judicial systems: it can exercise its jurisdiction only when national courts are unwilling or unable to investigate or prosecute such crimes. Primary responsibility to investigate and punish crimes is therefore left to individual states.

Some precedents in international criminal law can be found in the time before the [First World War](http://en.wikipedia.org/wiki/First_World_War). However, it was only after the war that a truly international criminal tribunal was envisaged to try perpetrators of crimes committed in this period. Thus, the Treaty of [Versailles](http://en.wikipedia.org/wiki/Versailles) stated that an international tribunal was to be set up to try [Wilhelm II](http://en.wikipedia.org/wiki/Wilhelm_II) of [Germany](http://en.wikipedia.org/wiki/Germany). In the event however, the Kaiser was granted asylum in the Netherlands. After the [Second World War](http://en.wikipedia.org/wiki/Second_World_War), the [Allied powers](http://en.wikipedia.org/wiki/Allied_powers) set up an international tribunal to try not only [war crimes](http://en.wikipedia.org/wiki/War_crimes), but [crimes against humanity](http://en.wikipedia.org/wiki/Crimes_against_humanity) committed under the Nazi regime. The [Nuremberg Tribunal](http://en.wikipedia.org/wiki/Nuremberg_Tribunal) held its first session in [1945](http://en.wikipedia.org/wiki/1945) and pronounced judgments on 30 September / 1 October [1946](http://en.wikipedia.org/wiki/1946). A similar tribunal was established for Japanese war crimes (The [International Military Tribunal for the Far East](http://en.wikipedia.org/wiki/International_Military_Tribunal_for_the_Far_East)). It operated from 1946 to 1948.

After the beginning of the war in [Bosnia](http://en.wikipedia.org/wiki/Bosnia_and_Herzegovina), the [United Nations Security Council](http://en.wikipedia.org/wiki/United_Nations_Security_Council)

established the [International Criminal Tribunal for the Former Yugoslavia](http://en.wikipedia.org/wiki/International_Criminal_Tribunal_for_the_Former_Yugoslavia) (ICTY) in 1993 and, after the [genocide](http://en.wikipedia.org/wiki/Genocide) in [Rwanda](http://en.wikipedia.org/wiki/Rwanda), the [International Criminal Tribunal for Rwanda](http://en.wikipedia.org/wiki/International_Criminal_Tribunal_for_Rwanda) in 1994. The [International Law Commission](http://en.wikipedia.org/wiki/International_Law_Commission) had commenced preparatory work for the establishment of a permanent [International Criminal Court](http://en.wikipedia.org/wiki/International_Criminal_Court) in 1993; in 1998, at a Diplomatic Conference in Rome, the Rome Statute establishing the ICC was signed. The ICC issued its first arrest warrants in 2005.

**The importance of prosecuting international crimes**

The prosecution of severe international crimes—including as genocide, crimes against humanity, and war crimes—is a necessary to enforce international criminal law and deliver justice to victims.

This is an important component of transitional justice, or the process of transforming societies into rights-respecting democracies and addressing past human rights violations.

Investigations and trials of leaders who have committed crimes and caused mass political or military atrocities is a key demand of victims of human rights abuses. Prosecution of such criminals can play a key role in restoring dignity to victims, and restoring trusting relationships in society.

The International Criminal Court can play an important role in prosecuting international crimes in cases where domestic courts are unwilling or unable to do so.

**Section B. Our right**

1. **as specified by the Geneva Convention Agreement against Torture on February 4, 1985, which was open for signatories at United Nations Headquarters in New York.**

**CONVENTION AGAINST TORTURE
and Other Cruel, Inhuman or Degrading
Treatment or Punishment**

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975 (resolution 3452 (XXX)),

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

**Part I**

**Article 1**

1. For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

**Article 2**

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

**Article 3**

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

**Article 4**

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

**Article 5**

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
	1. When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
	2. When the alleged offender is a national of that State;
	3. When the victim was a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in Paragraph 1 of this article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

**Article 6**

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present, shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, to the representative of the State where he usually resides.
4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said State and shall indicate whether it intends to exercise jurisdiction.

**Article 7**

1. The State Party in territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found, shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

**Article 8**

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offenses. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested state.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

**Article 9**

1. States Parties shall afford one another the greatest measure of assistance in connection with civil proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

**Article 10**

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.
2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

**Article 11**

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

**Article 12**

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committee in any territory under its jurisdiction.

**Article 13**

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

**Article 14**

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other person to compensation which may exist under national law.

**Article 15**

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

**Article 16**

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.
2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment or which relate to extradition or expulsion.

**Article 17**

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of 10 experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and are willing to serve on the Committee against Torture.
3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3.
6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.
7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

**Article 18**

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that
	1. Six members shall constitute a quorum;
	2. Decisions of the Committee shall be made by a majority vote of the members present.
3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
5. The State Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement of the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 above.

**Article 19**

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of this Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken, and such other reports as the Committee may request.
2. The Secretary-General shall transmit the reports to all States Parties.
3. [Each report shall be considered by the Committee which may make such comments or suggestions on the report as it considers appropriate, and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments or suggestions made by it in accordance with paragraph 3, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1.]

**Article 20**

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practiced in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

 **Article 21**

1. A State Party to this Convention may at any time declare under this article 3 that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
	1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, references to domestic procedures and remedies taken, pending, or available in the matter.
	2. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Committee and to the other State.
	3. The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
	4. The Committee shall hold closed meetings when examining communications under this article.
	5. Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in the present Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission.
	6. In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information.
	7. The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing.
	8. The Committee shall, within 12 months after the date of receipt of notice under subparagraph (b), submit a report.
		1. If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached.
		2. If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

 In every matter, the report shall be communicated to the States Parties concerned.

 9. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

 **Article 22**

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party to the Convention which has not made such a declaration.
2. The Committee shall consider inadmissible any communication under this article which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.
3. Subject to the provisions of paragraph 2, the Committee shall bring any communication submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
5. The Committee shall not consider any communication from an individual under this article unless it has ascertained that:
	1. The same matter has not been, and is not being examined under another procedure of international investigation or settlement;
	2. The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
6. The Committee shall hold closed meetings when examining communications under this article.
7. The Committee shall forward its views to the State Party concerned and to the individual.
8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit parties thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

**Article 23**

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on missions for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

**Article 24**

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

**Part III**

**Article 25**

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

**Article 26**

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

**Article 27**

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

**Article 28**

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

**Article 29**

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Convention with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the State Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

**Article 30**

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made such a reservation.
3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

**Article 31**

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective. Nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

**Article 32**

The Secretary-General of the United Nations shall inform all members of the United Nations and all States which have signed this Convention or acceded to it, or the following particulars:

1. Signatures, ratifications and accessions under articles 25 and 26;
2. The date of entry into force of this Convention under article 27, and the date of the entry into force of any amendments under article 29;
3. Denunciations under article 31.

**Article 33**

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

On February 4, 1985, the Convention was opened for signature at United Nations Headquarters in New York. At that time, representatives of the following countries signed it: Afghanistan, Argentina, Belgium, Bolivia, Costa Rica, Denmark, Dominican Republic, Finland, France, Greece, Iceland, Italy, Netherlands, Norway, Portugal, Senegal, Spain, Sweden, Switzerland and Uruguay. Subsequently, signatures were received from Venezuela on February 15, from Luxembourg and Panama on February 22, from Austria on March 14, and from the United Kingdom on March 15, 1985.

**Section C. Our right**

1. **as specified in the Constitution of South Africa dated 1994**

The constitution of SA dated 1994, section 33(1) and (2) must be regarded to read as follows:

"*Every person has the right to*­

* 1. *lawful administrative action where any of their rights or interests is affected or threatened;*
	2. *procedurally fair administrative action where any of their rights or legitimate expectations is affected or threatened; (see attachment 1 – Constitution of SA 1994)*

There has been no change in this part of the Constitution of South Africa since 1994 to the best of my knowledge.

The matter we are reporting and upon which we are calling for immediate action is the destruction of our persons and nation in part and as a whole. This destruction is discussed in Attachment 17 - African National Congress in government and in Attachment 15 - The silent genocide of the Boer Nation in South Africa.

BUNDLE 1: Attachments 1 - 3 <https://www.createspace.com/4392573>

BUNDLE 2: Attachments 4 - 8 <https://www.createspace.com/4398589>

BUNDLE 3: Attachments 9 - 10 <https://www.createspace.com/4416061>

BUNDLE 4: Attachments 11 - 14 <https://www.createspace.com/4400727>

BUNDLE 5: Attachments 15 <https://www.createspace.com/4415962>

BUNDLE 6: Attachments 15a <https://www.createspace.com/4497969>

BUNDLE 7: Attachments 16 - 18 <https://www.createspace.com/4415984>

BUNDLE 8: Attachments 19 - 26 <https://www.createspace.com/4416010>

BUNDLE 9: Attachments 27 - 30 <https://www.createspace.com/4416021>

BUNDLE 10: Brief <https://www.createspace.com/4437109>

BUNDLE 11: Brief Concordance <https://www.createspace.com/4497991>

BUNDLE 12: Attachment 15b, update of

genocide records, 2013 will only be available

during April 2014 on <https://www.createspace.com/4498007>