

LEGAL RIGHTS -CRIMINAL - Equal Treatment

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 218.

218. The Committee is concerned at allegations that a disproportionate number of foreigners are facing the death penalty. The Committee encourages the State party to cooperate fully with the Special Rapporteur on extrajudicial, summary and arbitrary executions who has requested information on several cases of migrant workers who have not received legal assistance and have been sentenced to death.

- Albania, CERD, A/58/18 (2003) 53 at para. 312.

312. The Committee is concerned about information that members of the Roma minority, especially the young, are generally regarded with suspicion and subjected to ill-treatment and the improper use of force by police officers.

The Committee recommends that the State party take measures to halt such practices and to increase law enforcement officials' sensitivity to and training in matters involving racial discrimination.

- Czech Republic, CERD, A/58/18 (2003) 65 at para. 387.

387. The Committee is encouraged by the preparation of the new Act on Legal Aid, which will facilitate access to justice of victims of discrimination. However, it is concerned at continued reports that judges in criminal proceedings are reluctant to issue findings that crimes are racially motivated. The Committee also regrets the lack of information on specific cases of victims of discrimination having obtained adequate reparation.

The Committee encourages the State party to establish promptly a legal aid system for alleged victims of racism...

- Norway, CERD, A/58/18 (2003) 79 at para. 479.

479. The Committee is concerned about the shortage of well-qualified interpreters in court proceedings, which may be an obstacle to the enjoyment by non-native speakers of the right to equal treatment before the courts and all other organs administering justice.

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The Committee recommends that the State party adopt further measures, in accordance with article 5 (a) of the Convention, to mitigate the current difficulties with regard to interpretation services.

- Nigeria, CERD, A/60/18 (2005) 54 at para. 295.

295. In the light of the “intersectionality” of ethnic and religious discrimination, the Committee remains concerned that members of ethnic communities of the Muslim faith, in particular, Muslim women, can be subjected to harsher sentences than other Nigerians. While noting the explanations provided by the delegation that all persons have the freedom to make their own choice with regard to the application of statutory, customary or religious law, the Committee notes that concerned persons may not necessarily be in a position to exercise individual choice in the matter (art. 5 (a)).

The Committee reminds the State party that all persons shall have the right to equal treatment before the courts and all other organs administering justice, and draws the attention of the State party to its general recommendation XXV (2000) on gender-related dimensions of racial discrimination.

ICCPR

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(18) and 75(20).

(18) The Committee remains concerned that, despite improvements in the security situation in Northern Ireland, some elements of criminal procedure continue to differ between Northern Ireland and the remainder of the State party's jurisdiction. In particular, the Committee is troubled that, under the so-called "Diplock court" system in Northern Ireland, persons charged with certain "scheduled offences" are subject to a different regime of criminal procedure, including the absence of a jury. That modified procedure applies unless the Attorney-General certifies, without having to justify or explain, that the offence is not to be treated as a scheduled offence. The Committee recalls its interpretation of the Covenant as requiring that objective and reasonable grounds be provided by the appropriate prosecution authorities to justify the application of different criminal procedure in particular cases.

The State party should carefully monitor, on an ongoing basis, whether the exigencies of the specific situation in Northern Ireland continue to justify any such distinctions. In particular, it should ensure that, in each case where a person is subjected to the "Diplock" jurisdiction, objective and reasonable grounds are provided and that this requirement is incorporated in

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the relevant legislation (including the Northern Ireland (Emergency Provisions) Act 1996).

...

(20) The Committee is concerned that provisions of the Criminal Procedure and Investigations Act 1996 enable prosecutors to seek a non-reviewable decision by a court to the effect that sensitive evidentiary material, which would otherwise be disclosed to a defendant, is withheld on public interest/immunity grounds. The Committee considers that the State party has failed to demonstrate the necessity of these arrangements.

The State party should review these provisions in the light of the Committee's remarks and previous concluding observations in respect of article 14, in order to ensure that the guarantees of article 14 are fully respected.

- Yemen, ICCPR, A/57/40 vol. I (2002) 72 at para. 83(15).

(15) The Committee notes with concern that the offences punishable by the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in determining on the basis of financial compensation whether or not the penalty is carried out is also contrary to articles 6, 14 and 26 of the Covenant.

The State party should review the question of the death penalty. The Committee points out that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. Consequently, it calls upon the State party to bring its legislation and practice into line with the provisions of the Covenant...

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at para.77(9).

(9) The Committee notes the discriminatory nature of some provisions in the Penal Code, which do not treat men and women equally in matters of adultery (articles 3 and 26 of the Covenant).

The State party should review its discriminatory penal provisions in order to conform to articles 3 and 26 of the Covenant.

- Estonia, ICCPR, A/58/40 vol. I (2003) 41 at para. 79(9).

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(9) While welcoming the additional explanations of the delegation on a case of alleged ill-treatment committed by police officers, the Committee remains concerned that acts of ill-treatment or other forms of violence perpetrated or condoned by law enforcement officials are not prosecuted on the basis of the most appropriate criminal charges but only as minor offences.

The State party should ensure that law enforcement officials are effectively prosecuted for acts that are contrary to article 7 of the Covenant, and that the charges correspond to the seriousness of the acts committed. The Committee also recommends that the State party guarantee the independence from police authorities of the newly created “police control department”, which is responsible for carrying out investigations of abuses committed by the police.

- Slovakia, ICCPR, A/58/40 vol. I (2003) 52 at para. 82(11).

(11) The Committee is concerned about the persistent allegations of police harassment and ill-treatment during police investigations, particularly of the Roma minority, which the delegation described as resulting from psychological failure to handle the situation rather than to problems with legislation or police incompetence (arts. 2, 7, 9, 26).

The State party should take measures to eradicate all forms of police harassment and ill-treatment during police investigations of the Roma, including prompt investigations, prosecution of perpetrators and the provision of effective remedies to the victims.

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at para. 63(14).

(14) The Committee is concerned that the law allowing for warrantless arrest is open to abuse, in that arrests in practice do not always respect the statutory conditions that the person arrested is actually committing a crime or that the arresting officer has "personal" knowledge of facts indicating that the person arrested committed the crime. The Committee is also concerned that a vaguely worded anti-vagrancy law is used in order to arrest persons without warrant, especially female prostitutes and street children.

The State party should ensure that its laws and practices with regard to arrest are brought into full conformity with article 9 of the Covenant.

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at para. 65(8).

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(8) The Committee is concerned that no independent oversight mechanism exists for investigating complaints of criminal conduct against members of the police, which could contribute to impunity for police officers involved in human rights violations (arts. 2, 7 and 9).

The State party should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuse of power by the police.

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at paras. 66(13) and 66(20).

(13) The Committee is concerned that the Prevention of Terrorism Act (PTA) remains in force and that several of its provisions are incompatible with the Covenant (arts. 4, 9 and 14). The Committee welcomes the decision of the Government, consistent with the Ceasefire Agreement of February 2002, not to apply the provisions of the PTA and to ensure that normal procedures for arrest, detention and investigation prescribed by the Criminal Procedure Code are followed. The Committee is also concerned that the continued existence of the PTA allows arrest without a warrant and permits detention for an initial period of 72 hours without the person being produced before the court (sect. 7), and thereafter for up to 18 months on the basis of an administrative order issued by the Minister of Defence (sect. 9). There is no legal obligation on the State to inform the detainee of the reasons for the arrest; moreover, the lawfulness of a detention order issued by the Minister of Defense cannot be challenged in court. The PTA also eliminates the power of the judge to order bail or impose a suspended sentence, and places the burden of proof on the accused that a confession was obtained under duress. The Committee is concerned that such provisions, incompatible with the Covenant, still remain legally enforceable, and that it is envisaged that they might also be incorporated into the Prevention of Organized Crimes Bill 2003.

The State party is urged to ensure that all legislation and other measures...taken to fight terrorism are compatible with the provisions of the Covenant. The provisions of the Prevention of Terrorism Act designed to fight terrorism should not be incorporated into the draft Prevention of Organized Crime Bill to the extent that they are incompatible with the Covenant.

...

(20) The Committee deplores the high incidence of violence against women, including domestic violence. It regrets that specific legislation to combat domestic violence still awaits adoption and notes with concern that marital rape is criminalized only in the case of judicial separation (art. 7).

The State party is urged to enact appropriate legislation in conformity with the Covenant without delay. It should criminalize marital rape in all circumstances...

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- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at para. 91(15).

(15) The Committee remains concerned that the offences carrying the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in deciding whether or not the penalty is carried out on the basis of financial compensation ("blood money") is also contrary to the Covenant...

The State party should limit the cases in which the death penalty is imposed, ensure that it is applied only for the most serious crimes, and officially abolish the sentence of death by stoning. The Committee reiterates that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon...The State party is further encouraged to work towards the abolition of the death penalty and to accede to the Second Optional Protocol to the Covenant.

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at paras. 92(12) and 92(16).

(12) The Committee is concerned that a procurator, rather than a judge, remains responsible for authorizing arrests. This creates an imbalance in the equality of arms between the accused and the prosecution, as the procurator may have an interest in the detention of those who are to be prosecuted. Further, detainees are not brought before the procurator following their arrest. An appeal to a court to review the lawfulness and grounds of arrest is possible, but it does not guarantee the participation of the detainee (art. 9).

The State party should revise its criminal procedure legislation and introduce a system that ensures that all detainees are as a matter of course brought promptly before a judge who will decide without delay on the lawfulness of the detention.

...

(16) The Committee is concerned that an inequality of arms between the prosecutor and the suspect/accused or defence counsel exists in practice, both during a criminal investigation and in court, for example in relation to obtaining and challenging evidence (art. 14, para. 1). This inequality also appears to be reflected in the very low number of acquittals handed down in the State party's courts, as apparent from the report (for example, the acquittal rate in 2002 was approximately 0.004 per cent).

The State party should amend its legislation and change its practice in order to guarantee full compliance with the basic principles of a fair trial, particularly the principle of equality of arms.

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- Syrian Arab Republic, ICCPR, A/60/40 vol. I (2005) 78 at para. 94(16).

(16) The Committee reiterates its previous concern that, despite article 25 of the Constitution, discrimination against women continues to exist in law and practice in matters related to marriage, divorce and inheritance, and that the Penal Code contains provisions discriminating against women, including providing lesser penalties for crimes committed by men in the name of honour. It notes the statement by the delegation that a commission is currently considering amendments to the personal status laws and that the provisions of the Penal Code with regard to honour crimes are currently being revised (arts. 3, 6 and 26).

The State party should review its laws in order to ensure equality between men and women in matters of personal status, and to eliminate any discrimination against women in the Penal Code.

ICESCR

- Brazil, ICESCR, E/2004/22 (2003) 28 at paras. 135 and 159.

135. The Committee is concerned that some articles of the Penal Code discriminate against women. In particular, it is concerned that article 215 of the Code requires the victim of a minor sexual assault to be an “honest woman” in order to prosecute the offence.

...

159. The Committee calls upon the State party to repeal all discriminatory provisions contained in the Penal Code, in particular article 215.

CEDAW

- Fiji, CEDAW, A/57/38 part I (2002) 9 at paras. 64 and 65.

64. The Committee is concerned that there is a growing problem of prostitution due to economic hardship, and that a colonial law from 1944 which penalizes the conduct of only women who engage in prostitution continues to be enforced.

65. The Committee recommends an holistic and integrated programme of law reform, and policies and programmes to facilitate reintegration, and the criminalization of the actions of only those who profit from the sexual exploitation of women.

- Yemen, CEDAW, A/57/38 part III (2002) 200 at paras. 390 and 391.

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390. The Committee expresses concern that several provisions of the Penal Code discriminate against women. It notes in particular article 232, which provides that a husband or other male relative who kills his wife in relation to adultery is not charged with murder.

391. The Committee urges the Government to eliminate any discriminatory penal provisions, and in particular article 232 as proposed by the National Women's Committee, in line with the Convention and to ensure that homicides committed against women by their husbands or male relatives are prosecuted and punished in the same way as other murders.

- Albania, CEDAW, A/58/38 part I (2003) 13 at paras 70 and 71.

70. ...[T]he Committee...is concerned that victims of trafficking are subject to punishment under the Albanian Penal Code. It is also concerned that prostitutes, but not those who exploit prostitutes, are prosecuted and punished.

71. The Committee recommends the formulation of a comprehensive strategy to combat trafficking in women and girls, which should include the prosecution and punishment of offenders... It calls on the State party to ensure that trafficked women and girls have the protection and support they need to enable them to provide testimony against their traffickers... It recommends that the State party review existing legislation and take steps to ensure that victims of trafficking are not penalized and that all those who exploit prostitutes are punished and prosecuted...

- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 361 and 362.

361. While appreciating the federal Government's efforts to combat discrimination against aboriginal women, including the pending amendment to the Canadian Human Rights Act, and to achieve substantive equality for them, the Committee is seriously concerned about the persistent systematic discrimination faced by aboriginal women in all aspects of their lives. The Committee is concerned that aboriginal women, among other highly vulnerable groups of women in Canada, are over-concentrated in lower-skill and lower-paying occupations, they constitute a high percentage of those women who have not completed secondary education, they constitute a high percentage of women serving prison sentences and they suffer high rates of domestic violence...

362. The Committee urges the State party to accelerate its efforts to eliminate *de jure* and *de facto* discrimination against aboriginal women both in society at large and in their communities, particularly with respect to the remaining discriminatory legal provisions and the equal enjoyment of their human rights to education, employment and physical and psychological well-being...

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- Brazil, CEDAW, A/58/38 part II (2003) 93 at paras. 104-107.

104. The Committee is concerned that the Penal Code still contains several provisions that discriminate against women. It is concerned about articles 215, 216 and 219 that require the victim to be an “honest woman” in order to prosecute the perpetrator. It is also concerned that article 107 covering “crimes against custom” provide for mitigation of sentence when the perpetrator married his victim, or when the victim marries a third party. The Committee notes that the draft bills to amend the Penal Code are being discussed in the National Congress.

105. The Committee calls upon the State party to give priority to amending the discriminatory provisions of the Penal Code without delay so as to bring the Code into line with the Convention and the Committee’s general recommendations, in particular general recommendation 19 on violence against women.

106. The Committee is concerned that, despite a Federal Supreme Court ruling in 1991, the judiciary sometimes continues to apply the defence of honour in cases of men accused of assaulting or murdering women. The Committee is concerned that such decisions lead to serious violations of human rights and have negative consequences for society, strengthening discriminatory attitudes towards women.

107. The Committee recommends that the State party implement training and awareness-raising programmes to familiarize judges, prosecutors and other members of the legal profession with the Convention and its Optional Protocol...

- Ecuador, CEDAW, A/58/38 part II (2003) 122 at paras. 315 and 316.

315. ...The Committee...expresses its concern at the fact that the Penal Code defines violence against women not as a serious offence but only a minor offence.

316 ...The Committee...considers it particularly important that violence against women should be penalized under the Ecuadorian Penal Code...

- Gabon, CEDAW, A/60/38 part I (2005) 37 at paras. 231 and 232.

231. The Committee is concerned about the persistence of discriminatory legal provisions, particularly pertaining to marriage and family relations, in the Civil and Penal Codes, including in respect of minimum age of marriage, separation and divorce, custody of children, equal-inheritance rights of widows and equal choice of residence and

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profession...Although an inventory of discriminatory legislation was compiled in 1997 and a number of studies have been undertaken on the discriminatory impact of legislation, the Committee is concerned about the lack of progress in amending discriminatory laws, in particular the Civil and Penal Codes.

232. The Committee urges the State party to accelerate the process of legal reform to eliminate discriminatory provisions, especially in the Civil and Penal Codes to ensure their full compliance with articles 2 and 16 of the Convention and the Committee's general recommendation 21 on equality in marriage and family relations. The Committee urges the State party to establish a concrete programme and timetable for such a reform process and to activate fully the inter-ministerial committee established for the purpose of reviewing the discriminatory aspects of the various codes. The Committee also encourages the State party to step up its efforts to increase awareness about the importance of legal reform for achieving *de jure* and *de facto* equality for women in accordance with its obligations under the Convention.

- Turkey, CEDAW, A/60/38 part I (2005) 58 at paras. 363 and 364.

363. The Committee is concerned that some provisions of the Penal and Civil Codes continue to discriminate against women and girls. In particular, the Committee is concerned that genital examinations of women, or virginity tests, may still be carried out under certain circumstances without the consent of the woman; and that the use of the term "custom killing" instead of "honour killing" in the Penal Code may result in less vigorous prosecution of, and less severe sentences for, the perpetrators of such crimes against women. It is also concerned that the penalization of consensual sexual relations among young people between 15 and 18 years of age may have a more severe impact on young women, especially in the light of the persistence of patriarchal attitudes...

364. The Committee calls upon the State party to give priority to amending remaining discriminatory legal provisions without delay so as to bring its legislation into line with article 2 of the Convention. In particular, it urges the State party to ensure that the consent of the woman be made a prerequisite for genital examinations under all circumstances; that any crime committed in the name of custom or honour be classified as aggravated homicide and the severest penalties provided for it by the law; and that the penalization of consensual sexual relations among young people between 15 and 18 years of age be reconsidered...

- Lebanon, CEDAW, A/60/38 part II (2005) 109 at paras. 103 and 104.

103. The Committee notes with concern that violence against women and girls persists, including domestic violence, rape and crimes committed in the name of honour. The

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Committee is especially concerned about article 562 of the Lebanese penal code, which allows mitigation of the penalty for crimes committed in the name of honour, and the apparent lack of sensitization efforts in the State party to reject a concept of honour that perpetuates and condones the killing of women.

104. The Committee urges the State party to accord priority attention to the adoption of a comprehensive approach to address violence against women and girls, taking into account the Committee's general recommendation 19 on violence against women. The Committee calls on the State party to amend article 562 of the Lebanese penal code, which allows mitigation of the penalty for crimes committed in the name of honour, and to adopt specific legislation on violence against women, including domestic violence, within a clear time frame so as to ensure that women and girls who are victims of violence have access to protection and effective redress, and that perpetrators of such acts are effectively prosecuted and punished...

- Guyana, CEDAW, A/60/38 part II (2005) 136 at paras. 289 and 290.

289. The Committee is concerned about the persistence of discriminatory legal provisions, particularly the Criminal Law (Offences) Act provision which makes it a criminal act for a girl of 16 years to have sexual intercourse with a relative such as a grandfather or brother and making her liable to imprisonment for up to seven years...

290. The Committee urges the State party to undertake comprehensive legal reform in accordance with its obligations under the Convention and, in particular, to eliminate discriminatory provisions without delay in the Criminal Law (Offences) Act and civil law so as to ensure full compliance with articles 2 and 16 of the Convention. The Committee requests the State party to provide the necessary support to the Women and Gender Equality Commission so that it may place high priority on reviewing existing and future legislation for compliance with the provisions of the Convention and submitting recommendations for compliance with international instruments to which the State is a party.

CAT

- Egypt, CAT, A/58/44 (2002) 22 at paras. 41 and 42.

41. The Committee is concerned about the following:

...

(e) The reports received concerning ill-treatment inflicted on men because of their real or

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alleged homosexuality, apparently encouraged by the lack of adequate clarity in the penal legislation;

...

(h) The excessive length of many of the proceedings initiated in cases of torture and ill-treatment, and the fact that many court decisions to release detainees are not enforced in practice;

...

42. The Committee recommends that the State party:

...

(g) Ensure that legislation gives full effect to the rights recognized in the Convention and institute effective remedies for the violation of such rights; ensure in particular that proceedings take place within a reasonable time after the submission of complaints, and that any court decision to release a detainee is actually enforced;

...

(k) Remove all ambiguity in legislation which might underpin the persecution of individuals because of their sexual orientation. Steps should also be taken to prevent all degrading treatment during body searches;

...

- Croatia, CAT, A/59/44 (2004) 38 at paras. 77 and 78.

77. The Committee is concerned about the following:

(a) In connection with torture and ill-treatment which reportedly occurred during the 1991-1995 armed conflict in the former Yugoslavia:

...

(ii) Allegations that double standards were applied at all stages of the proceedings against Serb defendants and in favour of Croat defendants in war crime trials;

...

78. The Committee recommends that the State party:

(a) Take effective measures to ensure impartial, full and prompt investigations into all allegations of torture and other cruel, inhuman or degrading treatment, the prosecution and punishment of the perpetrators as appropriate and irrespective of their ethnic origin, and the provision of fair and adequate compensation for the victims;

...

- Bahrain, CAT, A/60/44 (2005) 44 at paras. 108 and 109.

108. The Committee expresses its concern at:

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...

(f) The apparent failure to investigate promptly, impartially and fully the numerous allegations of torture and ill-treatment and to prosecute alleged offenders, and in particular the pattern of impunity for torture and other ill-treatment committed by law enforcement personnel in the past;

(g) The blanket amnesty extended to all alleged perpetrators of torture or other crimes by Decree No. 56 of 2002 and the lack of redress available to victims of torture;

...

(m) The different regimes applicable, in law and in practice, to nationals and foreigners in relation to their legal right to be free from conduct that violates the Convention. The Committee reminds the State party that the Convention and its protections are applicable to all acts that are in violation of the Convention that occur within its jurisdiction, from which it follows that all persons are entitled, in equal measure and without discrimination, to the rights contained therein;

...

109. The Committee recommends that the State party:

...

(d) Consider steps to amend Decree No. 56 of 2002 to ensure that there is no impunity for officials who have perpetrated or acquiesced in torture or other cruel, inhuman or degrading treatment;

...

(f) Ensure that any measure taken to combat terrorism, including the draft law, is in accordance with Security Council resolutions which require, *inter alia*, that anti-terrorism measures be carried out with full respect for the applicable rules of, *inter alia*, international human rights law, including the Convention;

...

CRC

- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 57 and 58.

57. Noting the statement by the delegation that the problem of crimes committed in the name of honour do not exist in the State party, the Committee is nevertheless concerned that the provisions relating to “honour crimes” remain in the Penal Code. It is deeply concerned at the statement by the delegation that in some cases such crimes are not punished at all.

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58. The Committee recommends that the State party:

- (a) Rapidly review its legislation with a view to eliminating all provisions allowing sentences to be reduced if the crime in question is committed in the name of honour;
- (b) Amend the law in accordance with international standards and ensure prompt and thorough investigations and prosecutions; and
- (c) Undertake awareness-raising activities to make such practices socially and morally unacceptable.

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 200 and 201.

200. The Committee takes note of the recognition given to the problem of honour killings by the State party, but is nonetheless very concerned at the widespread and increasing problem of so-called honour killings, affecting children both directly and, through their mothers, indirectly. The Committee is seriously concerned that, despite the efforts of the State party, the police are often reluctant to arrest the perpetrators and that the latter receive lenient or token punishment.

201. The Committee recommends that the State party take all necessary measures to ensure that there is no discriminatory treatment for crimes of honour and that they are promptly, fairly and thoroughly investigated and prosecuted. In addition, the Committee recommends that the State party undertake a thorough review of the existing legislation and strengthen awareness-raising campaigns in this regard.

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 466, 467, 482 and 483.

466. The Committee reiterates its serious concern at article 220 of the Penal Code, which provides that fathers who kill their child, or their son's child, are only required to pay one third of the blood money to the mother, and are subjected to a discretionary punishment, in the event that the mother makes a formal complaint.

467. The Committee recommends that the State party take the necessary measures, including the amendment of the offending article of the Penal Code, to ensure that there is no discriminatory treatment for such crimes and that prompt and thorough investigations and prosecutions are carried out.

...

482. The Committee continues to be concerned about legislation that provides for corporal punishment within the family. While welcoming the new Law on the Protection of Children

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and Adolescents (2003), which includes the prohibition of all forms of molestation and abuse of children and the obligation to report cases of child abuse, the exceptions stated therein continue to legally allow various forms of violence against children. More particularly, several articles of the Civil and Penal Code have been excluded, including article 1179 of the Civil Law and article 59 of the Penal Code, which gives parents the right to physically discipline their children within non-defined “normal limits”. In the Committee’s view, such exceptions contribute to the abuse of children inside and outside the family and contravene the principles and provisions of the Convention, in particular article 19. The Committee also notes with concern that certain forms of sexual abuse of children or grandchildren are not explicitly prohibited.

483. The Committee recommends that the State party:

(a) Continue and strengthen its efforts, including through legislative and other measures, to prohibit and prevent all forms of physical and mental violence against children, including corporal punishment and sexual abuse, in the family, in schools, and in other institutions, and take the necessary legislative measures to ensure that all those who sexually abuse children are punished without discrimination;

...

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 188 and 190.

188. The Committee expresses its grave concern about the sexual exploitation of children, including growing child prostitution, and the reported cases of child pornography in the State party... Furthermore, the Committee notes with concern that the minimum age of sexual consent is not clearly enough established in the State party’s domestic legislation and that the Revised Penal Code (Republic Act No. 3815) imposes maximum penalties for sexual offences when the victim is under 12 years of age but imposes lower penalties for sexual offences against minors over 12 years of age.

...

190. The Committee urges the State party to:

(a) Review its domestic laws on the protection of children against sexual exploitation, including the use of children for pornography, in order to provide all child victims of such exploitation with equal protection, *inter alia*, by including in the law equal sanctions to all perpetrators of sexual offences against children;

...