

# **TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

## **IV. CONCLUDING OBSERVATIONS, CONTINUED**

### **CERD**

- Hungary, CERD, A/57/18 (2002) 63 at paras. 378 and 379.

378. The Committee is concerned about the number of allegations of ill-treatment and discrimination against the Roma and non-citizens by law enforcement officials, especially the police. The Committee notes that the "Medium-Term Package of Measures to Improve the Living Conditions and Social Position of the Roma Population", as revised, contains a section on police behaviour in connection with members of the Roma minority. The Committee is aware, however, that the above practices have not ceased.

379. The Committee recommends that the State party intensify its efforts to combat ill treatment of Roma and non-citizens by the police, especially through the strict application of relevant legislation and regulations providing for sanctions, adequate training and instructions to be given to law enforcement bodies and the sensitization of the judiciary. The State party should also consider recruiting more members of minority groups, especially of the Roma minority, to serve in law enforcement bodies and strengthening the existing legal aid system for alleged victims, as well as empowering parliamentary commissioners to investigate allegations of ill-treatment and discrimination by the police.

- Spain, CERD, A/59/18 (2004) 32 at para. 165.

165. The Committee...notes with satisfaction the introduction under article 174 of the Penal Code of discriminatory motive as an element in the crime of torture.

### **ICCPR**

- Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at para. 74(15).

(15) The Committee remains concerned about the persistence of widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials.

The State party should institute a more effective system of monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully

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protected. The State party should also ensure that all allegations of torture are effectively investigated by an independent authority, that the persons responsible are prosecuted, and that the victims are given adequate compensation. Free access to legal counsel and doctors should be guaranteed in practice, immediately after arrest and during all stages of detention. The arrested person should have an opportunity immediately to inform a family member about the arrest and the place of detention. All allegations of statements of detainees being obtained through coercion must lead to an investigation and such statements must never be used as evidence, except as evidence of torture.

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at para. 75(12).

(12) The Committee is disturbed at the sharply increased number of racist incidents within the criminal justice system, particularly those reported as having been committed by police and prison staff against inmates. Racist violence between prisoners inappropriately located together has also resulted in serious violations of prisoners' rights under the Covenant, including at least one case of murder.

The State party should encourage the transparent reporting of racist incidents within prisons and ensure that racist incidents are rapidly and effectively investigated. It should ensure that appropriate disciplinary and preventive measures are developed to protect those persons who are particularly vulnerable. To this end, the State party should pay particular attention to improving the representation of ethnic minorities within the police and prison services.

- Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at paras. 76(11) and 76(13).

(11) The Committee is deeply concerned at reported instances of police brutality towards persons being apprehended and detainees, noting that such persons are frequently aliens. It is also concerned that many cantons do not have independent mechanisms for investigation of complaints regarding violence and other forms of misconduct by the police. The possibility of resort to court action cannot serve as a substitute for such mechanisms.

The State party should ensure that independent bodies with authority to receive and investigate effectively all complaints of excessive use of force and other abuses of power by the police are established in all cantons. The powers of such bodies should be sufficient to ensure that those responsible are brought to justice or, as appropriate, are subject to disciplinary sanctions sufficient to deter future abuses and that the victims are adequately compensated (article 7 of the Covenant).

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...

(13) The Committee is deeply concerned that, in the course of the deportation of aliens, there have been instances of degrading treatment and use of excessive force, resulting on some occasions in the death of the deportee.

The State party should ensure that all cases of forcible deportation are carried out in a manner which is compatible with articles 6 and 7 of the Covenant. In particular, it should ensure that restraint methods do not affect the life and physical integrity of the persons concerned.

- Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at paras. 77(9)-77(11).

(9) The Committee is concerned at the lack of an independent mechanism for investigating complaints against members of the police and prison guards. This fact may account for the small number of recorded complaints, in contrast to information about large numbers of violations received from non-government sources (articles 2, 7 and 9 of the Covenant).

The State party should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuses of power by law-enforcement officials, and initiate criminal and disciplinary proceedings against those found responsible.

(10) While welcoming the steps taken by the State party to bring its law into compliance with international standards to prevent torture, the Committee is deeply concerned at the reported failure to ensure application of such legal provisions and at continuing reports of the use of torture and cruel, inhuman or degrading treatment or punishment. The Committee notes that the delegation could not provide clarifications on the number of investigations and prosecutions in regard to torture, particularly under the new Criminal Code, or on remedies provided to victims and their families, including rehabilitation and compensation (articles 2 and 7 of the Covenant).

The State party should take all necessary measures to ensure the full implementation of its domestic and international obligations relating to torture and cruel, inhuman or degrading treatment or punishment. The State party should ensure the prompt, impartial and full investigation of all allegations of torture, the prosecution of persons responsible, as well as compensation to victims, or as the case may be, their families.

(11) The Committee is concerned that the legal right of detainees to access to counsel, medical advice and members of the family is not always respected in practice (articles 7 and 9 of the Covenant).

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The State party should ensure scrupulous respect for these rights by its law enforcement agencies, procuracy and judiciary.

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at paras. 78(7)-78(9).

(7) The Committee expresses its concern at the still very large number of deaths of detainees in police stations and prisons, including suicides and deaths from tuberculosis. The Committee also remains concerned about the large number of cases of tuberculosis reported in prisons.

The State party should take urgent measures to protect the right to life and health of all detained persons as provided for in articles 6 and 7 of the Covenant. Specifically, the State party should improve the hygiene, diet and general conditions of detention and provide appropriate medical care to detainees as provided for in article 10 of the Covenant. It should also ensure that every case of death in detention is promptly investigated by an independent agency.

(8) The Committee remains concerned at the widespread and continuing subjection of prisoners to torture and cruel, inhuman or degrading treatment or punishment by law-enforcement officials and prison officers.

(a) The State party should ensure that all forms of torture and similar ill-treatment are punishable as serious crimes under its legislation, in order to comply with article 7 of the Covenant;

(b) The State party should also set up an effective system to monitor the treatment of all prisoners, in order to ensure full protection of their rights under articles 7 and 10 of the Covenant;

(c) The State party should also ensure that all complaints of ill-treatment are properly investigated by an independent authority, that those responsible are brought to justice and that victims are appropriately compensated;

(d) Immediately upon first being deprived of liberty and during all stages of detention, free access to a lawyer and to doctors should be ensured;

(e) All statements obtained by force from detained persons should be investigated and may never be used as evidence, except as evidence of torture; and

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(f) The State party should provide training in human rights, particularly on the prohibition of torture, to police and prison officers.

(9) The Committee is concerned at the length of the period (up to 72 hours) that persons can be kept in police detention before they are informed of the charges against them. It is also concerned at the fact that, until the trial takes place, the accused cannot make a complaint before a judge regarding abuse or ill-treatment during the period of detention.

The State party should ensure that detainees are informed promptly of the charges against them, in accordance with article 9 of the Covenant. Detainees should be given the opportunity to make a complaint before a judge regarding any ill-treatment during the investigation phase, as required by articles 7 and 14 of the Covenant.

- Sweden, ICCPR, A/57/40 vol. I (2002) 57 at paras. 79(7), 79(8), 79(10) and 79(12).

(7) The Committee notes with concern the persistence of domestic violence despite legislation adopted by the State party (articles 3 and 7 of the Covenant).

The State party should pursue its policy against domestic violence and, in this framework, should take more effective measures to prevent it and assist the victims of such violence.

(8) The Committee notes with concern cases of female genital mutilation and "honour crimes" involving girls and women of foreign extraction (articles 3, 6 and 7 of the Covenant).

The State party should continue its efforts to prevent and eradicate such practices. In particular, it should ensure that offenders are prosecuted, while promoting a human rights culture in the society at large, especially among the most vulnerable sectors of immigrant communities.

...

(10) The Committee notes with concern several cases of excessive use of force by the police which led to serious injury and death, for example of persons in custody or during the Goteborg summit (articles 6, 7 and 10 of the Covenant).

The State party should ensure the completion of investigations into such use of force, in conditions of total transparency and through a mechanism independent of the law enforcement authorities. Depending on the results of the investigations, it should expedite the prosecution of law enforcement officers implicated. The State party should also guarantee better human rights training of police officers. During demonstrations, the State party should ensure that no equipment that can endanger human life is used.

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...

(12) While it understands the security requirements relating to the events of 11 September 2001, and takes note of the appeal of Sweden for respect for human rights within the framework of the international campaign against terrorism, the Committee expresses its concern regarding the effect of this campaign on the situation of human rights in Sweden, in particular for persons of foreign extraction. The Committee is concerned at cases of expulsion of asylum-seekers suspected of terrorism to their countries of origin. Despite guarantees that their human rights would be respected, those countries could pose risks to the personal safety and lives of the persons expelled, especially in the absence of sufficiently serious efforts to monitor the implementation of those guarantees (two visits by the embassy in three months, the first only some five weeks after the return and under the supervision of the detaining authorities) (articles 6 and 7 of the Covenant)...

(a) The State party must ensure that measures taken under the international campaign against terrorism are fully in conformity with the Covenant. The State party is requested to ensure that the concern over terrorism is not a source of abuse;

(b) In addition, the State party should maintain its practice and tradition of observance of the principle of *non-refoulement*. When a State party expels a person to another State on the basis of assurances as to that person's treatment by the receiving State, it must institute credible mechanisms for ensuring compliance by the receiving State with these assurances from the moment of expulsion;

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- Hungary, ICCPR, A/57/40 vol. I (2002) 60 at paras. 80(8), 80(10) and 80(12).

(8) The Committee regrets that, under the new Criminal Procedure Act, short-term arrest of up to 12 hours remains possible. It expresses its concern both at the length of the initial pre-trial detention phase (up to 72 hours) and the difficulties experienced by detainees in contacting their families and obtaining access to a lawyer, especially if the detained person cannot afford to engage private counsel. Further, the Committee is deeply concerned at ongoing pre-trial detention on police premises and the high risk of ill-treatment which it entails. It also greatly regrets that pre-trial detention of up to three years is provided for under the Act.

The State party should reconsider removing these provisions from the new Criminal Procedure Act, especially those permitting detention in police stations for more than 48 hours. The State party should ensure that its law and practice are compatible with article 9 of the Covenant. It should also bring to the attention of judges the particular risk of ill-

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treatment in police premises, and take appropriate measures to ensure detainees' rights to contact their families and obtain legal assistance (articles 7, 9 and 14 of the Covenant).

...

(10) The Committee regrets continuing reports of violence against women, including rape and sexual harassment.

The State party should take more vigorous measures to encourage the development of a culture of human rights and to ban violence against women; in this context, training and education in human rights are essential at all levels and in all sectors of society. In particular, the State party should take measures to encourage women to report domestic violence to the authorities, and to make police officers more sensitive in their handling of allegations of rape and its psychological effects on the victim. It should also consider enacting further legislation to deal with domestic violence, including the introduction of restraining orders as a means of separating women from violent male family members; and it should provide shelters and other support for victims of domestic violence (articles 3, 7 and 9 of the Covenant).

...

(12) The Committee is concerned at the high number of reports of ill-treatment by law enforcement agencies, the limited number of investigations carried out by the State party in such cases, and the very limited number of convictions in those cases which are investigated.

The State party should take measures to educate law enforcement officials and judges with a view to preventing such treatment and, when it occurs, should ensure careful investigation and prosecution where necessary. It should also establish an independent system of investigation of complaints of abuses by law enforcement officials (article 7 of the Covenant).

- New Zealand, ICCPR, A/57/40 vol. I (2002) 63 at para. 81(11).

(11) The Committee recognizes that the security requirements relating to the events of 11 September 2001 have given rise to efforts by New Zealand to take legislative and other measures to implement Security Council resolution 1373 (2001). The Committee, however, expresses its concern that the impact of such measures or changes in policy on New Zealand's obligations under the Covenant may not have been fully considered. The Committee is concerned about possible negative effects of the new legislation and practices on asylum-seekers, including by "removing the immigration risk offshore" and in the absence of monitoring mechanisms with regard to the expulsion of those suspected of terrorism to their countries of origin which, despite assurances that their human rights would be respected, could pose risks to the personal safety and lives of the persons expelled (articles

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6 and 7 of the Covenant).

The State party is under an obligation to ensure that measures taken to implement Security Council resolution 1373 (2001) are in full conformity with the Covenant. The State party is requested to ensure that the definition of terrorism does not lead to abuse and is in conformity with the Covenant. In addition, the State party should maintain its practice of strictly observing the principle of *non-refoulement*.

- Viet Nam, ICCPR, A/57/40 Vol. I (2002) 67 at paras. 82(11), 82(14) and 82(19).

(11) The Committee is concerned that the State party has not yet established an independent, legally constituted body with power to oversee and investigate complaints of human rights violations, including complaints against members of the police and the security services and prison guards. This fact may account for the small number of recorded complaints, in contrast to the information about large numbers of violations received from non-governmental sources (arts. 2, 7 and 10).

The State party should establish, by legislation, a permanent independent human rights monitoring body with adequate powers and resources to receive and investigate allegations of torture or other abuses of power by public officials, including members of the security services, and to initiate criminal and disciplinary proceedings against those found responsible.

...

(14) The Committee is concerned that the State party asserts that domestic violence against women is a new phenomenon and that, although some efforts have been made, there is no comprehensive approach to preventing and eliminating it and punishing the perpetrator (arts. 3, 7, 9 and 26).

The State party should assess the impact of measures already taken to address the incidence of domestic violence against women. It should strengthen and improve the effectiveness of legislation, policies and programmes aimed at combating such violence. The State party should further implement training and sensitization programmes for the judiciary, law enforcement officials and members of the legal profession, as well as awareness-raising measures, to ensure zero tolerance in society of violence against women.

...

(19) While noting that the State party denies any violation of the Covenant rights in this respect, the Committee remains concerned at the abundance of information regarding the treatment of the Degar (Montagnard) indicating serious violations of articles 7 and 27 of the Covenant...



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The State party should take immediate measures to ensure that the rights of members of indigenous communities are respected. Non-governmental organizations and other human rights monitors should be granted access to the central highlands.

- Yemen, ICCPR, A/57/40 vol. I (2002) 72 at paras. 83(6), 83(7) and 83(16)-83(18).

(6) The Committee notes with concern the continued practice of female genital mutilation (articles 3, 6 and 7 of the Covenant). It is also concerned at the persistence of domestic violence despite the legislation passed by the State party (articles 3 and 7 of the Covenant).

The State party must pursue its efforts to eradicate such practices. It should in particular ensure that proceedings are instituted against the perpetrators and promote a human rights culture within society along with greater awareness of the rights of women, especially the right to physical integrity. It must also take more efficient action to prevent and punish domestic violence and aid the victims.

(7) The Committee notes with concern the situation of discrimination against women in matters of personal status, particularly in matters of marriage and divorce and the rights and duties of spouses.

The State party should review its legislation to ensure that, in all fields in the life of society, women enjoy complete equality with men, both in law and in fact, so as to comply with its obligations under the Covenant (articles 3, 7, 8, 17 and 26 of the Covenant).

...

(16) The Committee is extremely troubled to find that amputation and flagellation, and corporal punishment generally, are still prescribed accepted and practised, for this is contrary to article 7 of the Covenant.

The State party must take appropriate measures to end these practices and ensure that the Covenant is respected.

(17) The Committee is disturbed to note cases of torture and cruel, inhuman or degrading treatment for which law enforcement officers are responsible. It is equally concerned at the absence, in general, of investigations into such reprehensible practices and of punishment for the perpetrators. It is also concerned at the absence of an independent body to investigate such reports (articles 6 and 7 of the Covenant).

The State party should ensure that all human rights abuses are investigated and should, depending on the findings of the investigations, institute proceedings against the perpetrators

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of such violations. It should also set up an independent body to investigate such reports.

(18) While it understands the security requirements connected with the events of 11 September 2001, the Committee expresses its concern about the effects of this campaign on the human rights situation in Yemen, in relation to both nationals and foreigners...The Committee also expresses its concern about cases of expulsion of foreigners suspected of terrorism without an opportunity for them to legally challenge such measures. Such expulsions are, furthermore, apparently decided on without taking into account the risks to the physical integrity and lives of the persons concerned in the country of destination (arts. 6 and 7).

The State party must ensure that the measures taken in the campaign against terrorism are within the limits of Security Council resolution 1373 (2001) and fully consistent with the provisions of the Covenant. It is requested to ensure that the fear of terrorism does not become a source of abuse.

- Republic of Moldova, ICCPR, A/57/40 vol. I (2002) 76 at para. 84(9).

(9) The Committee is deeply concerned at the conditions prevailing in the State party's detention facilities, in particular its failure to comply with international standards (as acknowledged by the State party), including the guarantees provided in articles 7 and 10 of the Covenant. It is particularly disturbed at the prevalence of disease, notably tuberculosis, which is a direct result of prison conditions. It reminds the State party of its obligation to ensure the health and life of all persons deprived of their liberty. Danger to the health and lives of detainees as a result of the spread of contagious diseases and inadequate care amounts to a violation of article 10 of the Covenant and may also include a violation of articles 9 and 6.

The State party should take immediate steps to ensure that the conditions of detention within its facilities comply with the standards set out in articles 6, 7 and 10 of the Covenant, including the prevention of the spread of disease and the provision of appropriate medical treatment to persons who have contracted diseases, either in prison or prior to their detention.

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at paras. 77(11), 77(13) and 77(16).

(11) While taking note of the action and awareness campaigns against female genital mutilation, the Committee notes that this practice still continues (article 7 of the Covenant).

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The State party should eradicate the practice of female genital mutilation.

...

(13) While noting the creation of institutional machinery and the introduction of measures to punish any violations of human rights by employees of the State, the Committee notes with concern the persistence of torture and cruel, inhuman or degrading treatment at the hands of law-enforcement personnel, in particular the security services, whose recourse to such practices appears to display a systematic pattern. It is equally concerned at the general lack of investigations into such practices, punishment of those responsible, and reparation for the victims. It is also concerned at the absence of any independent body to investigate such complaints (articles 6 and 7 of the Covenant).

The State party should ensure that all violations of articles 6 and 7 of the Covenant are investigated and, depending on the results of investigations, should take action against those held responsible and make reparation to the victims. It should also set up an independent body to investigate such complaints...

...

(16) While understanding the security requirements associated with efforts to combat terrorism, the Committee voices concern at their effects on the human rights situation in Egypt, particularly in relation to articles 6, 7, 9 and 14 of the Covenant.

...

(c) The Committee notes...that Egyptian nationals suspected or convicted of terrorism abroad and expelled to Egypt have not benefited in detention from the safeguards required to ensure that they are not ill-treated, having notably been held *incommunicado* for periods of over one month (articles 7 and 9 of the Covenant).

The State party must ensure that steps taken in the campaign against terrorism are fully in accordance with the Covenant. It should ensure that legitimate action against terrorism does not become a source of violations of the Covenant.

- Togo, ICCPR, A/58/40 vol. I (2002) 36 at paras. 78(3), 78(9), 78(12), 78(14), 78(15) and 78(23).

(3) The Committee wishes in particular to express its concern at the major contradictions between the many consistent allegations of serious violations of several provisions of the Covenant, notably articles 6, 7 and 19, and the sometimes categorical denials of the State party. In the view of the Committee, the State party has not demonstrated its resolve to get to the bottom of the allegations. Noting that the submission and consideration of reports are designed to institute a constructive and sincere dialogue the Committee encourages the State party to make every effort to that end.

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(9) The Committee is concerned at:

(a) information that many extrajudicial executions, arbitrary arrests, threats and intimidation perpetrated by the Togolese security forces, against members of the civilian population, in particular members of the opposition, have not been investigated in a credible manner. The Committee notes that the adoption of laws such as the December 1994 Amnesty Act is likely to reinforce the culture of impunity in Togo.

(b) The fact that the Joint United Nations/OAU International Commission of Inquiry concluded that “a situation involving systematic violations of human rights existed in Togo during 1998” (E/CN.4/2001/134, para. 68). Those violations relate, in particular, to article 6 of the Covenant, and also to articles 7 and 9. The categorical rejection of the Commission’s report, which the State party has declared to be inadmissible, and the creation some weeks later of a national commission of inquiry, which has clearly not sought to identify precisely those responsible for the violations drawn to the Government’s attention, also prompt the greatest concern on the part of the Committee.

The State party should adopt legislative or other measures to combat and prevent the perpetration of such violations, in keeping with articles 6 and 9 of the Covenant and the “Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions”. The State party should establish, through judicial proceedings, the individual responsibilities of the alleged perpetrators of these violations.

...

(12) The Committee notes with concern the many allegations that torture is common practice in Togo, particularly on arrest, during police custody and in places of detention, whereas the State party claims that only a few rare cases of torture have taken place and that they were punished (art. 7).

The State party should honour its promise to transmit to the Committee as soon as possible, written information concerning the treatment of detainees in Landja and Tamedja camps.

The State party should ensure that all acts of torture constitute offences under its criminal law, and prohibit any statement obtained under torture from being used as evidence. Impartial and independent inquiries should be carried out with a view to addressing all allegations of torture and inhuman and degrading treatment ascribed to public officials, and bringing the presumed perpetrators of the violations to justice.

...

(14) The Committee notes with concern that, on the one hand, the provisions of the Code of Criminal Procedure relating to police custody contain no reference to notifying detainees

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of their rights, the presence of a lawyer or the right of the detainee to inform a member of his family of his arrest. On the other hand, a medical examination of the detainee is possible only at his request or at the request of a member of his family, and with the consent of the procurator's office. Moreover, the time limit of 48 hours for police custody is allegedly rarely observed in practice, and some persons have reportedly been detained for years without being charged.

...The State party should reform the provisions of its Code of Criminal Procedure that deal with police custody with a view to ensuring the effective prevention of violations of the physical and psychological integrity of persons held in police custody, and protecting their right to a defence, pursuant to articles 7, 9 and 14 of the Covenant. It should also ensure that justice is administered in a timely fashion, in accordance with article 14.

(15) The Committee notes with concern that detention conditions in Togo are appalling, particularly in the civil prisons in Lomé and Kara, which are very overcrowded and where the food supply is uncertain and inadequate. This situation has been acknowledged by the State party, which draws attention to its financial difficulties and to its officers' lack of training.

The State party should develop alternative sentences to imprisonment. In addition, the State party should establish an independent inspectorate to carry out regular visits to all detention centres. That inspectorate should include elements independent of the Government, to ensure transparency and observance of articles 7 and 10 of the Covenant, and should be charged with making all the necessary proposals concerning ways of improving detainees' rights and detention conditions, including access to health care.

...

(23) The Committee recommends the introduction of a far-reaching human rights education programme for law enforcement personnel, particularly policemen, gendarmes and members of the armed forces, as well as all prison staff. Regular and specific training should be conducted with a view to combating torture and inhuman and degrading treatment and prohibiting extrajudicial executions and arbitrary arrests; such training should also include the treatment and rights of detainees. In this regard, the Committee suggests that the State party request assistance from the Office of the United Nations High Commissioner for Human Rights and from non-governmental organizations.

- Estonia, ICCPR, A/58/40 vol. I (2003) 41 at paras. 79(9), 79(12) and 79(13).

(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

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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.

...

(12) In the light of the State party’s legislation on the use of firearms, the Committee expresses concern at the possibility of the use of lethal force in circumstances not presenting a risk to the lives of others.

The State party is invited to revise its outdated legislation to ensure that the use of firearms is restricted by the principles of necessity and proportionality as reflected in paragraphs 9 and 16 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (articles 7 and 10 of the Covenant).

(13) While welcoming the precise information provided by the delegation on the procedure related to the determination of refugee status, the Committee remains concerned that the application of the principle of “safe country of origin” may deny the individual assessment of a refugee claim when the applicant is considered to come from a “safe” country.

The State party is reminded that, in order to afford effective protection under articles 6 and 7 of the Covenant, applications for refugee status should always be assessed on an individual basis and that a decision declaring an application inadmissible should not have restrictive procedural effects such as the denial of suspensive effect of appeal (articles 6, 7 and 13 of the Covenant).

- Luxembourg, ICCPR, A/58/40 vol. I (2003) 45 at para. 80(6).

(6) The Committee continues to be concerned, on the one hand, about the maximum length of time detainees may be held in solitary confinement, i.e. six months, and the lack of information on the conditions in which such treatment is applied and, on the other hand, by the holding of detainees *incommunicado*, even though this has happened only once in 12 years.

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The State party should ensure that practices with regard to the treatment of detainees are in keeping with articles 7, 9 and 10 of the Covenant. In this connection, the State party should adopt legislation regulating and limiting incommunicado detention with the long-term objective of eliminating it completely, particularly during pre-trial detention.

- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(15).

(15) The Committee is concerned by reports of cases of torture and extrajudicial executions, allegedly committed by soldiers in 2000 following the murder of three tourists in Kidal. The Committee finds it difficult to accept the view of the delegation that there were no extrajudicial executions, even though no inquiry has been conducted by the State party. The Committee is also seriously concerned about the delegation's statement that no inquiries have been conducted into the complaints of torture and inhuman or degrading treatment made by members of opposition parties arrested in 1997, because of the national reconciliation process and the need to protect public order (articles 6 and 7).

The State party should avoid the growth of a culture of impunity for the perpetrators of human rights violations and should ensure that systematic inquiries are conducted into allegations of violence against life and limb by its officials.

- Slovakia, ICCPR, A/58/40 vol. I (2003) 52 at paras. 82(12) and 82(13).

(12) Despite the oral and written answers provided by the delegation, the Committee remains concerned at reports of forced or coerced sterilization of Roma women. In particular, the Committee regrets that in its written answers submitted after the oral consideration of the report, the State party did not clearly deny or admit breaches of the principle of full and informed consent but asserted that an investigation of maternity wards and gynaecology departments of 12 hospitals did not reveal infringements of "medical indication" of sterilization. The reference made, in the same submission, to "the fact that not all administrative acts were fulfilled in every case" appears to amount to an implicit admission of breaches of the requirement of informed consent (arts. 7, 26).

The State party should adopt all necessary measures to investigate all alleged cases of coerced or forced sterilization, publicize the findings, provide effective remedies to victims and prevent any future instances of sterilization without full and informed consent.

(13) The Committee is concerned at the continuing use of cage-beds as a measure of restraint in social care homes or psychiatric institutions (art. 10).

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The use of cage-beds should cease.

- Portugal, ICCPR, A/58/40 vol. I (2003) 56 at paras. 83(8) and 83(10)-83(12)

(8) The Committee is concerned about reported cases of disproportionate use of force and ill-treatment by the police, occurring particularly at the time of arrest and during police custody, and resulting, in some instances, in the death of the victims. Police violence against persons belonging to ethnic minorities appears to be recurrent. The Committee is equally concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases, particularly those relating to the deaths of several persons in 2000 and 2001, allegedly caused by police officers (arts. 2, 6, 7 and 26).

(a) The State party should end police violence without delay. It should increase its efforts to ensure that education on the prohibition of torture and ill-treatment, as well as sensitization on issues of racial discrimination, are included in the training of law enforcement personnel. Efforts should also be made to recruit members of minority groups into the police.

(b) The State party should ensure that all alleged cases of torture, ill-treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished, and that compensation is provided to the victims or their families. To this end, a police oversight service, independent from the Ministry of the Interior, should be created...

...

(10) The Committee is concerned about reported cases of ill-treatment and abuse of authority by prison staff and of violence among prisoners which, in some instances, have led to the death of the victims (arts. 6, 7 and 10).

(a) The State party should increase its efforts towards the elimination of violence among prisoners and ill-treatment by prison staff, in particular through adequate training of staff and timely prosecution of offences.

...

(11) The Committee is concerned that, despite considerable improvement, overpopulation in prisons still amounts to 22 per cent, that access to health care remains problematic and that pre-trial and convicted detainees are not always kept separately in practice (arts. 7 and 10).

The State party should ensure that all persons deprived of liberty are treated with humanity and with respect for their inherent dignity as human beings. It should intensify its efforts to reduce the overpopulation in prisons and ensure that pre-trial and convicted detainees are



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kept separately. Appropriate and timely medical care must be available to all detainees.

(12) The Committee takes note that asylum-seekers whose applications are deemed inadmissible (e.g. on the basis of the exclusion clauses of article 1 F of the 1951 Convention relating to the Status of Refugees or because they have missed the eight-day deadline for submitting their applications) are not deported to countries where there is armed conflict or systematic violations of human rights. However, it remains concerned that applicable domestic law does not provide effective remedies against forcible return in violation of the State party's obligation under article 7 of the Covenant.

The State party should ensure that persons whose applications for asylum are declared inadmissible are not forcibly returned to countries where there are substantial grounds for believing that they would be in danger of being subjected to arbitrary deprivation of life or torture or ill-treatment, and provide effective remedies in domestic law in this regard.

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at paras. 84(12) and 84(18).

(12) The Committee is concerned at reports of PNC [National Civil Police] involvement in violations of the right to life (art. 6) and in torture, cruel, inhuman or degrading treatment and abuse of authority (art. 7), and regrets that it was unable to obtain precise information on the number of sackings that have resulted from cases of torture or similar conduct.

The Committee...recommends compliance by PNC with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It also requests the State party to consider establishing an external mechanism, independent of the National Civil Police, with the right to conduct inquiries and supervise the police.

...

(18) The Committee is concerned at the wording of article 297 of the Criminal Code, which does not offer a suitable description of the crime of torture.

The State party should offer stronger protection against torture and cruel, inhuman or degrading treatment or punishment (art. 7), in particular by clarifying the definition of the crime of torture given in article 297 of the Criminal Code and enforcing that article where necessary.

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at paras. 85(10), 85(12), 85(13), 85(15), 85(16) and 85(18).

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(10) The Committee welcomes the Supreme Court's judgement of September 1999 which invalidated the former governmental guidelines governing the use of "moderate physical pressure" during interrogations and held that the Israeli Security Agency (ISA) has no authority under Israeli law to use physical force during interrogations.

...

(12) While welcoming the State party's decision to review the need to maintain the declared state of emergency and to prolong it on a yearly rather than an indefinite basis, the Committee remains concerned about the sweeping nature of measures during the state of emergency that appear to derogate from Covenant provisions...As to measures derogating from article 9 itself, the Committee is concerned about the frequent use of various forms of administrative detention, particularly for Palestinians from the Occupied Territories, entailing restrictions on access to counsel and on the disclosure of full reasons for the detention. These features limit the effectiveness of judicial review, thus endangering the protection against torture and other inhuman treatment prohibited under article 7 and derogating from article 9 more extensively than what in the Committee's view is permissible pursuant to article 4. In this regard, the Committee refers to its earlier concluding observations on Israel and to its general comment No. 29.

The State party should complete as soon as possible the review initiated by the Ministry of Justice of legislation governing states of emergency. In this regard, and pending the adoption of appropriate legislation, the State party should review the modalities governing the renewal of the state of emergency and specify the provisions of the Covenant from which it seeks to derogate, to the extent strictly required by the exigencies of the situation (art. 4).

(13) The Committee is concerned that the use of prolonged detention without any access to a lawyer or other persons in the outside world violates the Covenant (arts. 7, 9, 10 and 14, para. 3 (b)).

The State party should ensure that no one is held for more than 48 hours without access to a lawyer.

...

(15) The Committee is concerned by what the State party calls "targeted killings" of those identified by the State party as suspected terrorists in the Occupied Territories. This practice would appear to be used at least in part as a deterrent or punishment, thus raising issues under article 6. While noting the delegation's observations about respect for the principle of proportionality in any response to terrorist activities against civilians and its affirmation that only persons taking direct part in hostilities have been targeted, the Committee remains concerned about the nature and extent of the responses by the Israeli Defence Force (IDF) to Palestinian terrorist attacks.

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The State party should not use “targeted killings” as a deterrent or punishment. The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. State policy in this respect should be spelled out clearly in guidelines to regional military commanders, and complaints about disproportionate use of force should be investigated promptly by an independent body. Before resorting to the use of deadly force, all measures to arrest a person suspected of being in the process of committing acts of terror must be exhausted.

(16) While fully acknowledging the threat posed by terrorist activities in the Occupied Territories, the Committee deplores what it considers to be the partly punitive nature of the demolition of property and homes in the Occupied Territories. In the Committee’s opinion the demolition of property and houses of families some of whose members were or are suspected of involvement in terrorist activities or suicide bombings contravenes the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one’s home (art. 17), freedom to choose one’s residence (art. 12), equality of all persons before the law and equal protection of the law (art. 26), and not to be subject to torture or cruel and inhuman treatment (art 7) .

The State party should cease forthwith the above practice.

...

(18) The Committee is concerned that interrogation techniques incompatible with article 7 of the Covenant are still reported frequently to be resorted to and the “necessity defence” argument, which is not recognized under the Covenant, is often invoked and retained as a justification for ISA [Israeli Security Agency] actions in the course of investigations.

The State party should review its recourse to the “necessity defence” argument...It should ensure that alleged instances of ill-treatment and torture are vigorously investigated by genuinely independent mechanisms and that those responsible for such actions are prosecuted...

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at paras. 63(12) and 63(17).

(12) The Committee is concerned about the reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and the lack of legislation specifically prohibiting torture in accordance with articles 7 and 10 of the Covenant. The Committee notes that evidence is not admissible if it is shown to have been obtained by improper means, but remains concerned that the victim bears the burden of proof in this event.

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The State party should institute an effective system of monitoring treatment of all detainees, to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should ensure that all allegations of torture are effectively and promptly investigated by an independent authority, that those found responsible are prosecuted, and that victims are given adequate compensation. Free access to legal counsel and a doctor should be guaranteed in practice, immediately after arrest and during all stages of detention. All allegations that statements of detainees have been obtained through coercion must lead to an investigation and such statements must never be used as evidence, except as evidence of torture, and the burden of proof, in such cases, should not be borne by the alleged victim.

...

(17) The Committee is concerned that the measures of protection of children are inadequate and the situation of large numbers of children, particularly the most vulnerable, is deplorable. While recognizing that certain legislation has been adopted in this respect, many problems remain in practice, such as:

...

(b) persistent reports of ill-treatment and abuse, including sexual abuse, in situations of detention and children being detained together with adults where conditions of detention may amount to cruel, inhuman and degrading treatment (art. 7);

...

The State party should:

(a) Expedite the adoption of legislation governing juvenile justice which complies with international standards of juvenile justice in accordance with article 10, paragraph 3, of the Covenant. The Committee recommends that training for professionals in the area of administration of juvenile justice be enhanced and that human and financial resources for effective implementation of the new legislation be secured;

...

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at paras. 64(12) and 64(13).

(12) While the Committee notes that a number of measures have been taken to prevent the use of excessive force and torture by law enforcement personnel during the process of questioning, it remains concerned that suspects and detainees are not sufficiently protected under current legislation. The Committee is concerned at the reported occurrence of torture or ill-treatment, especially during informal interrogations in police stations when the presence of a lawyer is not required.

The State party should ensure that law enforcement officials are prosecuted for acts contrary to article 7 of the Covenant, and that the charges correspond to the seriousness of the acts

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committed. The State party should ensure the implementation of existing applicable legislation, as well as the Covenant, through further professional training of law enforcement personnel on the rights of suspects and detainees.

(13) The Committee remains deeply concerned about continuing substantiated reports of human rights violations in the Republic of Chechnya, including extrajudicial killings, disappearances and torture, including rape. The Committee notes that some 54 police and military personnel have been prosecuted for crimes committed against civilians in Chechnya, but remains concerned that the charges and sentences handed down do not appear to correspond with the gravity of the acts as human rights violations. The Committee is also concerned that investigations into a number of large-scale abuses and killings of civilians in 1999 and 2000, in the locations of Alkhan Yurt, Novye Aldy and Staropromyslovskii district of Grozny, have still not been brought to a conclusion. The Committee acknowledges that abuse of and violations against civilians also involve non-State actors, but reiterates that this does not relieve the State party of its obligations under the Covenant. In this regard, the Committee is concerned about the provision in the Federal Law "On Combating Terrorism" which exempts law enforcement and military personnel from liability for harm caused during counter-terrorist operations.

The State party should ensure that operations in the Republic of Chechnya are carried out in compliance with its international human rights obligations. The State party should ensure that abuse and violations are not committed with impunity *de jure* or *de facto*, including violations committed by military and law enforcement personnel during counter-terrorist operations. All cases of extrajudicial executions, enforced disappearances and torture, including rape, should be investigated, their perpetrators prosecuted and victims or their families compensated (arts. 2, 6, 7 and 9).

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at paras. 65(7)-65(9).

(7) The Committee is concerned about allegations of ill-treatment of persons by police officers, as well as the lack of statistical data on the number, details and outcome of cases of ill-treatment by police officers. Although it notes that as of 2003, statistics on physical ill-treatment by police officers are being systematized (art. 7).

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

(8) The Committee is concerned that no independent oversight mechanism exists for

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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.

(9) While welcoming the entry into force of the new asylum law, the Committee remains concerned at the short time limits, in particular for the submission of an appeal under the accelerated asylum procedure, which raises concerns regarding the availability of an effective remedy in cases of *refoulement* (arts. 6, 7 and 2, para. 3).

The State party should ensure that the time limits under the accelerated asylum procedure are extended, in particular for the submission of an appeal.

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at paras. 60(9)-60(12), 60(18) and 60(20).

(9) The Committee remains concerned about persistent reports of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and members of the armed forces, and that the restrictive definition of torture in the 1994 Convention against Torture Act continues to raise problems in the light of article 7 of the Covenant. It regrets that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, have been inconclusive due to lack of satisfactory evidence and unavailability of witnesses, despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture, and only very few police or army officers have been found guilty and punished. The Committee also notes with concern reports that victims of human rights violations feel intimidated from bringing complaints or have been subjected to intimidation and/or threats, thereby discouraging them from pursuing appropriate avenues to obtain an effective remedy (article 2 of the Covenant).

The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 7 and 9 of the Covenant, and ensure effective enforcement of the legislation. It should ensure in particular that allegations of crimes committed by State security forces, especially allegations of torture, abduction and illegal confinement, are investigated promptly and effectively with a view to prosecuting perpetrators. The National Police Commission complaints procedure should be implemented as soon as possible. The authorities should diligently enquire into all cases of suspected intimidation of witnesses and establish a witness protection programme in order to put an end to the climate of fear that

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plagues the investigation and prosecution of such cases. The capacity of the National Human Rights Commission to investigate and prosecute alleged human rights violations should be strengthened.

(10) The Committee is concerned about the large number of enforced or involuntary disappearances of persons during the time of the armed conflict, and particularly about the State party's inability to identify, or inaction in identifying those responsible and to bring them to justice. This situation, taken together with the reluctance of victims to file or pursue complaints (see paragraph 9 above), creates an environment that is conducive to a culture of impunity.

The State party is urged to implement fully the right to life and physical integrity of all persons (articles 6, 7, 9 and 10, in particular) and give effect to the relevant recommendations made by the United Nations Commission on Human Rights Working Group on Enforced or Involuntary Disappearances and by the Presidential Commissions for Investigation into Enforced or Involuntary Disappearances. The National Human Rights Commission should be allocated sufficient resources to monitor the investigation and prosecution of all cases of disappearances.

(11) While noting that corporal punishment has not been imposed as a sanction by the courts for about 20 years, the Committee expresses concern that it is still statutorily permitted, and that it is still used as a prison disciplinary punishment. Moreover, despite directives issued by the Ministry of Education in 2001, corporal punishment still takes place in schools (art. 7).

The State party is urged to abolish all forms of corporal punishment as a matter of law and effectively to enforce these measures in primary and secondary schools, and in prisons.

(12) The Committee is concerned that abortion remains a criminal offence under Sri Lankan law, except where it is performed to save the life of the mother. The Committee is also concerned by the high number of abortions in unsafe conditions, imperilling the life and health of the women concerned, in violation of articles 6 and 7 of the Covenant.

The State party should ensure that women are not compelled to continue with pregnancies, where this would be incompatible with obligations arising under the Covenant (art. 7 and general comment No. 28), and repeal the provisions criminalizing abortion.

...

(18) The Committee is concerned about persistent reports that media personnel and journalists face harassment, and that the majority of allegations of violations of freedom of expression have been ignored or rejected by the competent authorities. The Committee

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observes that the police and other government agencies frequently do not appear to take the required measures of protection to combat such practices (arts. 7, 14 and 19).

The State party should take appropriate steps to prevent all cases of harassment of media personnel and journalists, and ensure that such cases are investigated promptly, thoroughly and impartially, and that those found responsible are prosecuted.

...

(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. The State party is also urged to initiate awareness-raising campaigns about violence against women.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at paras. 67(11), 67(12) and 67(14) - 67(16).

(11) The Committee is concerned about the fact that a significant number of arbitrary detentions, abductions, forced disappearances, cases of torture, extrajudicial executions and murders continue to occur in the State party. The Committee is also concerned that such practices as the arrest of election candidates continue, and that murders of legislators dating from earlier years remain unpunished. Human rights defenders, political and trade union leaders, judges and journalists continue to be targets of such actions... The Committee is also disturbed about the participation of agents of the State party in the commission of such acts, and the apparent impunity enjoyed by their perpetrators.

The State party should take immediate and effective steps to investigate these incidents, punish and dismiss those found responsible and compensate the victims, so as to ensure compliance with the guarantees set forth in articles 2 (3), 6, 7 and 9 of the Covenant.

(12) The Committee also expresses its concern about links involving extensive violations of articles 6, 7 and 9 of the Covenant between elements of the armed forces and State security forces, on the one hand, and illegal paramilitary groups on the other.

The State party should take effective measures to terminate the links between elements of the security services and illegal paramilitary groups.

...

(14) The Committee reiterates its concern about the high levels of violence to which women



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are subjected. The Committee is particularly disturbed about the limited number of investigations into cases of domestic violence and sexual violence experienced by women during the internal armed conflict and by internally displaced women. The Committee also continues to be concerned about the current rules for prosecuting cases of rape, which require the consent of the victim in order to proceed further.

The State party should strengthen existing measures aimed at protecting women against all types of violence, especially domestic violence. Furthermore, it is recommended that the State party should periodically monitor the number of investigations and convictions for such crimes compared to the number of complaints received. The State party should also revise its legislation on investigations into cases of rape with respect to the role of consent of the victim in the proceedings (arts. 3, 7 and 26).

(15) The Committee notes allegations that the Office of the Public Prosecutor has not pursued with appropriate diligence members of the armed forces and security forces suspected of perpetrating criminal violations of human rights, notably torture, enforced disappearances and summary and arbitrary executions (articles 6, 7 and 9, together with article 2).

The State party should ensure that these cases are investigated, whoever the alleged perpetrators may be, and guarantee to the victims the full exercise of the right to an effective remedy, as stipulated in article 2 of the Covenant.

(16) The Committee is concerned that military tribunals are continuing to investigate crimes committed by military personnel involving torture, enforced disappearances and summary and arbitrary executions, despite their previous ineffectiveness in solving such crimes and the decision of the Constitutional Court assigning jurisdiction over such crimes to the ordinary courts (articles 6, 7 and 9, together with article 2).

The State party should ensure that the ordinary courts investigate and adjudicate such crimes and that all elements of the armed forces cooperate in the proceedings in question. Individuals under investigation for such crimes should be suspended from active duty during the investigation and trial.

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at paras. 68(7), 68(16) and 68(17).

(7) The Committee welcomes the State party's clear and unambiguous position that torture is never acceptable, whatever the circumstances.

...

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(16) While appreciating the reduction in the number of complaints made public in recent years, the Committee expresses its concern about continuing reports of ill-treatment of persons by the police, including foreigners and members of ethnic minorities. It is concerned that despite the previous concluding observations of the Committee, the State party has not found ways to monitor the situation effectively and still lacks the necessary statistical information on police misconduct (art. 7).

(a) The State party should promptly, thoroughly and impartially investigate all allegations of police ill-treatment and, where appropriate, bring those responsible to justice.

(b) The State party should protect persons who bring complaints of ill-treatment against police officers against intimidation and provide full reparation, including fair and adequate compensation, and rehabilitation to victims and their families.

(c) The State party should improve monitoring of police misconduct by designating a central governmental agency to maintain and publish comprehensive statistics on ill-treatment and other relevant misconduct, including racist abuse, the measures taken in such cases and the results of investigations and disciplinary or penal proceedings. Furthermore, the State party should establish independent bodies throughout its territory to investigate complaints of ill-treatment by the police.

(17) The Committee notes the vulnerable situation of elderly persons placed in long-term care homes, which in some instances has resulted in degrading treatment and violated their right to human dignity (art. 7).

The State party should pursue its efforts to improve the situation of elderly persons in nursing homes.

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at paras. 69(11) and 69(12).

(11) While the Committee notes that the State party is taking measures to investigate and punish police officers involved in incidents of ill-treatment of detainees, including beatings and sexual abuse of detainees (especially during the initial stages of detention), it remains concerned that such incidents continue to be reported (arts. 7 and 10).

Allegations of ill-treatment in custody should be investigated by an independent mechanism, and those held responsible should be prosecuted and receive appropriate punishment. Victims of such treatment should receive full reparation, including fair and adequate compensation. Appropriate human rights training should continue to be given to law

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enforcement personnel.

(12) The Committee notes with concern the high incidence of domestic violence and the absence of appropriate legislation to protect women against such violence. It notes the delegation's additional information that acts of domestic violence may be prosecuted under alternative provisions of the Criminal Code (arts. 3 and 7).

The State party should take legal and educational measures to combat domestic violence. It is invited to educate the population at large about the need to respect women's rights and dignity.

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(5), 70(17) and 70(18).

(5) The Committee welcomes the ruling of the Supreme Court in *Kyawanywa v. the Attorney-General*, declaring corporal punishment as unconstitutional.

...

(17) The Committee takes note of the explanation provided by the delegation about the outlawing of "safe houses", places of unacknowledged detention where persons have been subjected to torture by military personnel. Nevertheless it remains concerned that State agents continue arbitrarily to deprive persons of their liberty, including in unacknowledged places of detention, in particular in northern Uganda. It is also concerned about the widespread practice of torture and ill-treatment of persons detained by the military as well as by other law enforcement officials (arts. 7 and 9).

The State party should take urgent and effective measures to prevent arbitrary detention and torture by State agents. It should thoroughly investigate any alleged case of arbitrary detention and torture, prosecute those held responsible and ensure that full reparation is granted, including fair and adequate compensation.

(18) The State party has acknowledged the deplorable prison conditions in Uganda. The most common problems are overcrowding, scarcity of food, poor sanitary conditions and inadequate material, human and financial resources. The treatment of prisoners continues to be a matter of concern to the Committee. There are reported incidents of corporal punishment for disciplinary offences. Solitary confinement and deprivation of food are also used as disciplinary measures. Juveniles and women are often not kept separate from adults and males. The Committee has taken note of the measures implemented by the State party to counteract these shortcomings, including the introduction of community service as an alternative to imprisonment. However, it notes that they are inadequate to overcome the problems. It is also concerned about the high percentage of persons detained on remand

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(almost 70 per cent of inmates) (arts. 7 and 10).

The State party should terminate practices contrary to article 7 and bring prison conditions into line with article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. It should also take immediate action to reduce overcrowding in prisons as well as the number of persons detained on remand.

- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at paras. 71(7), 71(10) and 71(13).

(7) The Committee is concerned about the formulation of the draft law on the legal status of foreigners, which, according to the State party's third report to the Counter-Terrorism Committee of the Security Council, may allow for the removal of foreigners who are regarded as a threat to State security, despite the fact that they may be exposed to a violation of their rights under article 7 in the country of return. The Committee is also concerned that in cases of alleged threat to the State, the implementation of the decision to remove a foreigner may not be suspended prior to consideration of an appeal, which may have the effect of denying that individual a remedy under article 2.

The State party is requested to ensure that counter-terrorism measures, whether taken in connection with Security Council resolution 1373 (2001) or otherwise, are in full conformity with the Covenant. In particular, it should ensure absolute protection for all individuals, without exception, against *refoulement* to countries where they risk violation of their rights under article 7.

...

(10) The Committee is concerned that there is no independent oversight mechanism for the investigation of complaints of criminal conduct against members of the police. This may 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, investigate and adjudicate all complaints of excessive use of force and other abuse of power by the police.

...

(13) The Committee is concerned that persons may still be detained in respect of administrative offences, and it regrets the paucity of information it has received on various forms of administrative detention, such as involuntary psychiatric care, immigration detention and detention as administrative punishment. It is also concerned that persons may be detained in police custody beyond the 48-hour limit within which they must either be brought before a judge on criminal charges or be made subject to the proceedings applicable

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to administrative offences, and that they may be returned to police custody for further investigation (arts. 7 and 9).

The State party should eliminate the institution of detention for administrative offences from its system of law enforcement and re-examine its legislation to ensure that the Covenant is complied with, including article 9, paragraph 4, which requires effective judicial review of all forms of detention. It should also ensure that persons ordered detained beyond the statutory 48-hour period are not held in police custody and that, once remanded in detention in prison, they cannot be returned to police custody.

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at paras. 72(10), 72(12) - 72(14), 72(17) and 72(18).

(10) The Committee is concerned at the small number of convictions in criminal and disciplinary proceedings of military personnel suspected of human rights violations during the United Nations operation in Somalia. It does note that the State party has removed the jurisdiction of military courts over acts committed by military personnel in peacetime (art. 2).

The State party should prohibit, and punish effectively, any conduct by military personnel, whether in peacetime or wartime, that is contrary to human rights, in particular the conduct set forth in articles 6 and 7 of the Covenant.

...

(12) The Committee is concerned about the persistence of allegations of police violence, often accompanied by racial discrimination. According to certain reports, investigations are not always thorough and judgements, when handed down, are still mostly of a token nature (arts. 2 and 7).

The State party should put a stop to all police violence and step up its efforts to conduct more thorough inquiries. Actions alleging abuse or violence brought against members of the forces of law and order, and actions brought by the forces of law and order against alleged victims, should be routinely linked.

(13) The Committee takes note of the delegation's explanations concerning the independence of the investigative services working for Standing Committee P, but observes that doubts persist concerning the independence and objectivity of those services (arts. 2 and 7).

The State party should adjust the membership of the investigative services with a view to

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ensuring that they are genuinely efficient and independent.

(14) The Committee is concerned by fresh allegations of excessive force being used when aliens are deported, despite the entry into force of new guidelines (arts. 6 and 7).

The State party should put an end to the excessive use of force when aliens are deported. Those responsible for effecting such deportations should be better trained and monitored.

...

(17) The Committee is concerned that foreigners held in closed facilities pending expulsion and then released by judicial decision have been held in the transit area of the national airport under questionable sanitary and social conditions. There are reports of periods of detention extending to several months in some cases. Such practices, in the Committee's view, are akin to arbitrary detention and can lead to inhuman and degrading treatment (arts. 7 and 9).

The State party should put an immediate stop to the holding of foreigners in the airport transit area.

(18) The Committee is concerned that, despite the recommendations it made in 1998, the State party has not ended its practice of keeping mentally ill people in prisons and psychiatric annexes to prisons for months before transferring them to social protection establishments. It reminds the State party that this practice is inconsistent with articles 7 and 9 of the Covenant.

The State party should end this practice as quickly as possible. It should also ensure that providing mental patients with care and protection and managing social protection establishments both form part of the Ministry of Health's responsibilities.

- Namibia, ICCPR, A/59/40 vol. I (2004) 64 at paras. 74(11), 74(12), and 74(14).

(11) The Committee notes with concern that the crime of torture is not defined in domestic criminal law and is still considered a common law offence to be charged like assault or *crimen injuria*.

The State party should, as a matter of priority, make torture a specific statutory crime.

(12) Although the Committee notes the decrease in reported violations of human rights in the northern parts of Namibia, it regrets that no extensive fact-finding initiatives have been undertaken to determine accountability for alleged acts of torture, extrajudicial killings and disappearances.

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The State party should establish an effective mechanism for the investigation and punishment of such acts.

...

(14) While the Committee takes note that, at present, magistrates are mandated to carry out independent inspections of detention centres, the Committee reiterates the need for an additional external and independent body mandated with the task of visiting the centres and receiving and investigating complaints emanating therefrom. A strong and independent mechanism is also required for the investigation of allegations of acts of police brutality in general.

The State party should consider establishing an independent body that would be able to visit all places of detention and conduct investigations into violations of rights and abuses in prisons and places of detention, and to investigate acts of police brutality in general.

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at paras. 75(9) and 75(12) - 75(15).

(9) The Committee is concerned at the persistence of impunity for serious human rights violations, both before and after the [regime] changes of October 2000. Although the Committee appreciates the declared policy of the State party to carry out investigations and to prosecute perpetrators of past human rights violations, it regrets the scarcity of serious investigations leading to prosecutions and sentences commensurate with the gravity of the crimes committed (arts. 2, 6, 7).

The State party is under an obligation to investigate fully all cases of alleged violations of human rights, in particular violations of articles 6 and 7 of the Covenant during the 1990s and to bring to trial those persons who are suspected of involvement in such violations. The State party should also ensure that victims and their families receive adequate compensation for violations. Persons alleged to have committed serious violations should be suspended from official duties during the investigation of allegations and, if found guilty, dismissed from public service in addition to any other punishment.

...

(12) While welcoming the measures taken to establish a system for trying war crimes before domestic courts, including the creation of a special war crimes trial chamber of the Belgrade District Court, and the establishment of the Office of a Special War Crimes Prosecutor, concern remains as to the absence of provisions in domestic legislation implementing the principle of command responsibility, the absence of an adequate system for witness protection, and the absence of investigators assigned solely to the prosecutor's office (arts. 2, 6, 7).

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The State party should take all necessary measures to ensure that those responsible for war crimes and crimes against humanity are brought to justice, to ensure that justice is carried out in a fair manner and to establish an adequate system for witness protection.

(13) The Committee is concerned at the measures taken under the state of emergency, which included substantial derogations from the State party's human rights obligations under the Covenant. The Committee notes the ruling of the Constitutional Court of Serbia of 8 July 2004, declaring unconstitutional some of the measures derogating from the Covenant taken by the Republic of Serbia under the state of emergency, and steps taken to punish violations that have occurred during this period and to provide compensation to all victims. Nevertheless, the Committee regrets that several concerns remain, particularly with regard to allegations of torture of detainees in the context of "Operation Sabre" (arts. 4, 7, 9, 14, 19).

The State party should take immediate steps to investigate all allegations of torture during "Operation Sabre" and take all necessary steps to ensure adequate mechanisms to prevent such violations and any abuse of emergency powers in future. The Committee draws the attention of the State party to its general comment No. 29 for the assessment of the scope of emergency powers.

(14) The Committee is concerned about continued allegations of ill-treatment of persons by law enforcement officials. It also notes the preliminary statement by the Committee against Torture, referred to in the initial report of the State party, to the effect that torture had been applied systematically in the Federal Republic of Yugoslavia prior to October 2000. The Committee is concerned that sufficient information has not been provided as to concrete steps taken to investigate such cases, punish those responsible and provide compensation to victims (art. 7).

The State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials, and to ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies to the victims.

(15) While taking note of the establishment in Serbia of the Office of Inspector General of the Public Security Service in June 2003, 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, 9).

The State party should establish independent civilian review bodies at the Republic level with authority to receive and investigate all complaints of excessive use of force and other



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abuse of power by the police.

- Finland, ICCPR, A/60/40 vol. I (2004) 22 at para. 81(4).

(4) The Committee is pleased to observe the State party's concern to integrate human rights into action to combat terrorism, in part by maintaining an outright ban on extradition, *refoulement* or expulsion to a country where the individual concerned might be exposed to the death penalty and violations of articles 6 and 7 of the Covenant.

***See also:***

- Iceland, ICCPR, A/60/40 vol. I (2005) 50 at para. 87(7).

- Albania, ICCPR, A/60/40 vol. I (2004) 25 at para. 82(13).

(13) The Committee is concerned about allegations of arbitrary arrests and detention, the excessive use of force by law enforcement officials, ill-treatment of detainees in police custody and use of torture to extract confession from suspects. It regrets that acts of torture by law enforcement officials are considered as "arbitrary acts" only and treated accordingly. It is also concerned that despite several cases of investigations and punishment of those responsible for ill-treatment, many cases have not been investigated properly and compensation to victims has not been provided (art. 7).

The State party should take firm measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of torture and ill-treatment. It should prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies including compensation to the victims.

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at paras. 83(12), 83(15) and 83(21).

(12) The Committee is concerned that certain provisions of the draft Criminal Code and Code of Criminal Procedure aimed at combating terrorism might infringe some of the rights set out in the Covenant (articles 2, 7, 9 and 14 of the Covenant).

The State party should seek to ensure that these provisions do not infringe the rights set out in the Covenant, particularly the right to security and freedom of the person, the right to a fair trial and the right not to be subjected to torture or cruel, inhuman or degrading treatment or

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punishment.

...

(15) The Committee is concerned by allegations that abuse of the system of police custody, torture and cruel, inhuman or degrading treatment are common practice in Benin. It is disturbed by the fact that law enforcement officials who perpetrate such violations appear to enjoy widespread impunity (articles 2, 7 and 9 of the Covenant).

The State party should display greater firmness in preventing abuses of police custody, torture and ill-treatment, and should strengthen the training provided to law enforcement personnel in this area. It should automatically bring disciplinary and criminal proceedings against the perpetrators of violations and, in particular, should enforce Constitutional Court decisions in such cases. The Committee recommends that the State party...conduct an independent investigation of the methods in use in the “Petit Palais”.

...

(21) The Committee is of the view that the requirement that pre-trial detainees and convicts must wear jackets indicating their place of detention constitutes degrading treatment, and that the requirement that pre-trial detainees must wear such jackets during their trial may infringe the principle of presumption of innocence (articles 7 and 14 of the Covenant).

The State party should abolish this measure.

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at paras. 84(13), 84(14) and 84(29).

(13) The Committee is concerned that article 26 of the new law on the residence of aliens permits the immediate expulsion of an alien deemed to be a threat to State security, even if the alien may be subjected to torture or ill-treatment or sentenced to death in the receiving country.

The State party should set up a system that would allow any alien who claims that expulsion would put them at risk of being subjected to torture, ill-treatment or the death penalty to lodge an appeal that would have the effect of suspending the expulsion (Covenant, arts. 6, 7 and 10).

(14) The Committee remains concerned at the numerous allegations of torture and ill-treatment of detainees and at the fact that the officials who are guilty of such acts are generally liable to disciplinary action only, where any sanction exists. In this context, the Committee notes with concern that no independent inquiries are conducted in police stations and other places of detention in order to guarantee that no torture or ill-treatment takes place.

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The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. The conclusions of such examinations should be studied in depth by the relevant authorities so that those responsible can be not only disciplined but also punished under criminal law. All places of detention should be subject to independent inspection (Covenant, arts. 7 and 10).

...

(29) The Committee notes with concern that abortion is still a criminal offence under Moroccan law unless it is carried out to save the mother's life.

The State party should ensure that women are not forced to carry a pregnancy to full term where that would be incompatible with its obligations under the Covenant (arts. 6 and 7) and should relax the legislation relating to abortion.

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at paras. 86(6) and 86(18).

(6) The Committee welcomes the information that Kenya has now prohibited all forms of corporal punishment of children, and notes that implementation of the prohibition should be accompanied by public information and education campaigns.

...

(18) The Committee is concerned at reports that police custody is frequently resorted to abusively, and that torture is frequently practised in such custody. It is especially concerned at the information about the extremely high number of deaths in custody provided by the delegation. While noting the delegation's explanations in this respect, it remains disturbed by reports that law enforcement officials responsible for acts of torture are seldom prosecuted, and that forms for the filing of complaints (so-called "P3 forms") can only be obtained from the police themselves. While welcoming the power given to the Kenya Human Rights Commission of unrestricted access to places of detention, it is concerned that such access is sometimes wrongfully denied by the police (articles 2, 6, 7 and 9 of the Covenant).

The State party should take more effective measures to prevent abuses of police custody, torture and ill-treatment, and should strengthen the training provided to law enforcement personnel in this area. It should ensure that allegations of torture and similar ill-treatment, as well as of deaths in custody, are promptly and thoroughly investigated by an independent body so that perpetrators are brought to justice, and that complaint forms are available from a public body other than the police. In particular, High Court judgements in such cases should be enforced without delay...The State party should enforce the law requiring that access to places of detention be given to the Kenya Human Rights Commission.

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- Mauritius, ICCPR, A/60/40 vol. I (2005) 52 at para. 88(13).

(13) The Committee notes with concern concurring reports from non-governmental organizations on numerous instances of ill-treatment and deaths of persons in custody and in prisons attributable to police officers. The Committee is concerned at the fact that few complaints are actually investigated in order to identify and punish the officers responsible. It notes with concern the limitations of the investigations carried out by the Complaints Investigation Bureau, as well as the shortcomings of the National Human Rights Commission (Covenant, arts. 6, 7 and 10). In that regard, it is concerned at the absence of an independent appeals body for complaints against the police authorities.

The State party should ensure that investigations into all violations under articles 6, 7 and 10 of the Covenant are carried out. It should, depending on the findings of the investigations, prosecute the perpetrators of such violations and pay compensation to the victims. The State party should also ensure that the victims have access to genuinely independent bodies for investigating those complaints...

- Uzbekistan, ICCPR, A/60/40 vol. I (2005) 56 at paras. 89(8) - 89(12) and 89(18).

(8) The Committee remains concerned about information before it that when prisoners under sentence of death are executed, the authorities systematically fail to inform the relatives of the execution, defer the issuance of a death certificate and do not reveal the place of burial of the executed persons. These practices amount to a violation of article 7 of the Covenant with respect to the relatives of the executed persons (Covenant, art. 7).

The State party is urged to change its practice in this regard, in order to comply fully with the Covenant's provisions.

(9) While it has noted with interest that in 2003 the Supreme Court of Uzbekistan handed down a judgement pursuant to which the provisions of national law relating to torture must be read in the light of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee remains concerned at the apparently narrow definition of torture in the State party's Criminal Code (Covenant, art. 7).

The State party should amend the relevant provisions of its Criminal Code in order to avoid misinterpretation not only by the judiciary, but also by its law enforcement authorities.

(10) The Committee is concerned about the continuing high number of convictions based on confessions made in pre-trial detention that were allegedly obtained by methods

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incompatible with article 7 of the Covenant. It also notes that, while on 24 September 2004 the Plenum of the Supreme Court held that no information obtained from a detained individual in violation of the criminal procedure requirements (including in the absence of a lawyer) may be used as evidence in court, this requirement is not reflected in a law (Covenant, arts. 7 and 14).

The State party should proceed with the necessary legislative amendments to ensure full compliance with the requirements of articles 7 and 14 of the Covenant.

(11) The Committee is concerned about allegations relating to widespread use of torture and ill-treatment of detainees and the low number of officials who have been charged, prosecuted and convicted for such acts. It is a matter of further concern that no independent inquiries are conducted in police stations and other places of detention to guarantee that no torture or ill-treatment takes place, apart from a small number of inquiries with external participation quoted by the delegation (Covenant, arts. 7 and 10).

The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. Those responsible should be prosecuted and punished in accordance with the seriousness of the crime committed. All places of detention should be subject to regular independent inspection. Provision should also be made for the medical examination of detainees, in particular persons held in pre-trial detention. The use of audio and video equipment in police stations and detention facilities should be considered.

(12) The Committee is concerned that there is no law governing expulsion of foreigners from Uzbekistan and that expulsion and extradition are regulated by bilateral agreements, which may allow for the expulsion of aliens even if they may be subjected to torture or ill-treatment in the receiving country (Covenant, arts. 7 and 13).

The State party should adopt the necessary norms to prohibit the extradition, expulsion, deportation or forcible return of aliens to a country where they would be at risk of torture or ill-treatment, and should establish a mechanism allowing aliens who claim that forced removal would put them at risk of torture or ill-treatment to file appeals with suspensive effect.

...

(18) The Committee is concerned about the lack of information on acts that may be qualified in the legal order as “terrorist acts” (Covenant, arts. 2, 6, 7, 9 and 14).

The State party should define what constitutes “terrorist acts” and ensure that its legislation in this matter complies with all the guarantees provided in the Covenant, in particular articles 2, 6, 7, 9 and 14.

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- Greece, ICCPR, A/60/40 vol. I (2005) 60 at paras. 90(9) and 90(16).

(9) The Committee is concerned about reported cases of disproportionate use of force by the police, including fatal shootings, and ill-treatment at the time of arrest and during police custody. Police violence against migrants and Roma appears to be recurrent. The Committee is equally concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases and the leniency of the courts in the few cases where law enforcement officers have been convicted (arts. 2 and 7).

(a) The State party should end police violence without delay. It should increase its efforts to ensure that education on the prohibition of torture and ill treatment, as well as sensitization on issues of racial discrimination are included in the training of law enforcement personnel;

(b) The State party should ensure that all alleged cases of torture, ill treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished under laws that ensure that sentences are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families...

...

(16) While noting that a legislative amendment to ban corporal punishment in secondary schools has been tabled in Parliament, the Committee is concerned at reports of a widespread practice of corporal punishment of children in the schools (art. 24).

The Committee recommends that the State party prohibit all forms of violence against children wherever it occurs, including corporal punishment in the schools, and undertake public information efforts with respect to appropriate protection of children from violence.

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at paras. 91(13), 91(15) and 91(16).

(13) The Committee notes the statement by the State party that although its effort to combat terrorism has had an impact on the enjoyment of civil and political rights in Yemen, this has not resulted in systematic and continuing violations. The Committee remains concerned, however, about reported grave violations of articles 6, 7, 9 and 14 of the Covenant committed in the name of the anti-terrorism campaign. It notes with concern reported cases of extrajudicial killings, enforced disappearances, arbitrary arrests, indefinite detention without charge or trial, torture and ill-treatment, and deportation of non-citizens to countries where they are in danger of being subjected to torture or ill-treatment.

The State party should ensure that the utmost consideration is given to the principle of

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proportionality in all its responses to terrorist threats and activities. It should bear in mind the non-derogable character of specific rights under the Covenant, in particular articles 6 and 7, which must be respected in all circumstances...

...

(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. Furthermore, while noting the claim that death by stoning has not been implemented for a long time in Yemen, the Committee is concerned that such a sentence may be pronounced, as shown by the case of Layla Radman 'A'esh before the court of first instance in Aden in 2000. The Committee also deplores the suffering she underwent while still under the sentence (arts. 6, 7, 14 and 26).

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.

(16) The Committee reiterates its deep concern that corporal punishments such as flogging, and in a few cases even amputation of limbs, are still prescribed by law and practised in the State party, in violation of article 7 of the Covenant.

The State party should immediately put an end to such practices and modify its legislation accordingly, in order to ensure its full compatibility with the Covenant.

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at paras. 92(9), 92(10) and 92(23).

(9) The Committee is concerned about information before it that, when prisoners under sentence of death were executed, the authorities systematically failed to inform the families and relatives of the date of execution or to reveal the place of burial of the executed persons. These practices amount to a violation of article 7 of the Covenant with respect to the family and relatives of the executed persons (art. 7).

The State party should take urgent measures to inform families of the burial sites of those who were executed before the moratorium.

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(10) The Committee is concerned about the widespread use of ill-treatment and torture by investigation and other officials to obtain information, testimony or self-incriminating evidence from suspects, witnesses or arrested persons (arts. 7 and 14, para. 3 (g)).

The State party should take all necessary measures to stop this practice, to investigate promptly all complaints of the use of such practices by officials and to proceed to the rapid prosecution, conviction and punishment of those responsible, and to provide adequate compensation to the victims.

...

(23) The Committee is concerned about reports of persistent recourse to corporal punishment as a means of discipline in schools (art. 24).

The State party should take the necessary measures to prohibit this practice.

- Slovenia, ICCPR, A/60/40 vol. I (2005) 74 at para. 93(9).

(9) The Committee is concerned about reported cases of ill-treatment by law enforcement officials and the lack of thorough investigations and adequate punishment of the responsible officials and non-payment of compensation to the victims. The Committee is also concerned that legal assistance may not be available from the beginning of detention for those who do not have the means to pay for it (art. 7).

The State party should take appropriate measures to prevent and punish all forms of ill-treatment by law enforcement officials to ensure the provision of legal assistance to all from the beginning of detention and prompt, thorough, independent and impartial investigation into all allegations of violations of human rights. It should prosecute perpetrators of such acts and ensure that they are punished in a manner proportionate to the seriousness of the offences committed by them, and grant effective remedies, including compensation, to the victims.

- Syrian Arab Republic, ICCPR, A/60/40 vol. I (2005) 78 at para. 94(9).

(9) While noting the information provided by the State party on measures taken against some law enforcement personnel for acts of ill-treatment of prisoners, the Committee remains deeply concerned at continuing reports of torture and cruel, inhuman or degrading treatment or punishment. The Committee is also concerned that these practices are facilitated by resort to prolonged *incommunicado* detention, especially in cases of concern to the Supreme State Security Court, and by the security or intelligence services (arts. 2, 7,



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9 and 10).

The State party should take firm measures to stop the use of *incommunicado* detention and eradicate all forms of torture and cruel, inhuman or degrading treatment or punishment by law enforcement officials, and ensure prompt, thorough, and impartial investigations by an independent mechanism into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies and rehabilitation to the victims.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(10), 95(15) - 95(17) and 95(24).

(10) The Committee is concerned at the persistent allegations of serious human rights violations, including widespread instances of extrajudicial killings and ill-treatment by the police and members of armed forces, illustrated by incidents such as the Tak Bai incident in October 2004, the Krue Se mosque incident on 28 April 2004 and the extraordinarily large number of killings during the “war on drugs” which began in February 2003. Human rights defenders, community leaders, demonstrators and other members of civil society continue to be targets of such actions, and any investigations have generally failed to lead to prosecutions and sentences commensurate with the gravity of the crimes committed, creating a culture of impunity. The Committee further notes with concern that this situation reflects a lack of effective remedies available to victims of human rights violations, which is incompatible with article 2, paragraph 3, of the Covenant (arts. 2, 6, 7).

The State party should conduct full and impartial investigations into these and such other events and should, depending on the findings of the investigations, institute proceedings against the perpetrators. The State party should also ensure that victims and their families, including the relatives of missing and disappeared persons, receive adequate redress. Furthermore, it should continue its efforts to train police officers, members of the military and prison officers to scrupulously respect applicable international standards. The State party should actively pursue the idea of establishing an independent civilian body to investigate complaints filed against law enforcement officials.

...

(15) The Committee is concerned about the persistent allegations of excessive use of force by law enforcement officials, as well as ill-treatment at the time of arrest and during police custody. The Committee is also concerned about reports of the widespread use of torture and cruel, inhuman or degrading treatment of detainees by law enforcement officials, including in the so-called “safe houses”. It is also concerned at the impunity flowing from the fact that only a few of the investigations into cases of ill-treatment have resulted in prosecutions, and fewer, in convictions, and that adequate compensation to victims has not been provided (art. 2, 7, 9).

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The State party should guarantee in practice unimpeded access to legal counsel and doctors immediately after arrest and during detention. The arrested person should have an opportunity immediately to inform the family about the arrest and place of detention. Provision should be made for a medical examination at the beginning and end of the detention period. Provision should also be made for prompt and effective remedies to allow detainees to challenge the legality of their detention. Anyone arrested or detained on a criminal charge must be brought promptly before a judge. The State party should ensure that all alleged cases of torture, ill-treatment, disproportionate use of force by police and death in custody are fully and promptly investigated, that those found responsible are brought to justice, and that compensation is provided to the victims or their families.

(16) ...The Committee deplores the continued shackling of death row prisoners and reports of prolonged solitary confinement...

...The use of shackling and long periods of solitary confinement should be stopped immediately...

(17) ...[T]he Committee is concerned about the deplorable situation of the Hmong people in Petchabun Province, the majority of them women and children who are not considered refugees by the State party and are facing imminent deportation to a State where they fear they will be persecuted. Finally, the Committee notes with concern that the current screening and expulsion procedures contain no provisions guaranteeing respect for the rights protected by the Covenant (arts. 7 and 13).

The State party should establish a mechanism to prohibit the extradition, expulsion, deportation or forcible return of aliens to a country where they would be at risk of torture or ill-treatment, including the right to judicial review with suspensive effect. The State party should observe its obligation to respect a fundamental principle of international law, the principle of *non-refoulement*.

...

(24) ...The Committee notes with concern the treatment of the Highlanders by law enforcement officials, in particular their forced eviction and relocation in the context of the 1992 Master Plan on Community Development, Environment and Narcotic Crop Control in Highland Areas, which gravely affected their livelihood and way of life, as well as the reports of extrajudicial killings, harassment and confiscation of property in the context of the “war on drugs” campaign...In addition, the Committee is concerned about violent suppression of peaceful demonstrations by law enforcement officers in contravention of articles 7, 19, 21 and 27 of the Covenant (arts. 2, 7, 19, 21 and 27).

The State party should guarantee the full enjoyment of the rights of persons belonging to

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minorities that are set out in the Covenant...

### **ICESCR**

- Jamaica, ICESCR, E/2002/22 (2001) 130 at paras. 937 and 950.

937. The Committee is profoundly concerned about the violence that has apparently become widespread in the State party. It is reported that over 1,000 people have been murdered in the year 2001 alone and that "tribal" politics is such that warlords rule large sections of the capital city where they are involved in extortion, drugs and prostitution. The Committee is particularly concerned that violence - including domestic and sexual violence - is committed against women of all ages and against children. According to reports from non-governmental organizations, children are regularly flogged and even threatened with weapons and child-rearing practices include corporal punishment of children in the home and in schools. The fact that these acts are committed with impunity constitutes a serious violation by the State party of its Covenant obligations.

...

950. The Committee calls upon the State party to exercise the full authority of the law and all means at its command to eradicate the scourge of violence. The Committee reminds the State party that in undertaking measures to combat violence, respect for human dignity and protection of human rights must be ensured at all times...

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/2003/22 (2002) 39 at para. 239.

239. Given the principle of the dignity of the individual, which provides the foundation for international human rights law (see paragraph 41 of the Committee's general comment no. 13 (1999) on the right to education (art. 13 of the Covenant)) and in the light of article 10, paragraphs 1 and 3, of the Covenant, the Committee recommends that the physical punishment of children in families be prohibited, in line with the recommendation of the Committee on the Rights of the Child made in 1995<sup>25/</sup> in its concluding observations on the State party.

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### Notes

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<sup>25/</sup> See *Official Records of the General Assembly, Fifty-first Session, Supplement No. 41 (A/51/41)*, para. 497.

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- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at paras. 277 and 300.

277. While the Committee welcomes the abolition of corporal punishment in schools, it is concerned at the continued resort to corporal punishment at home and for adult males in the justice system.

...

300. The Committee calls on the State party to prohibit effectively the use of corporal punishment in all areas of life.

- Malta, ICESCR, E/2005/22 (2004) 45 at paras. 351 and 369.

351. While corporal punishment is prohibited in schools and other institutions, the Committee notes that corporal punishment within the family, in the form of “reasonable chastisement”, is not prohibited by law.

...

369. The Committee encourages the State party to consider an explicit prohibition of corporal punishment within the family.

### **CEDAW**

- Sri Lanka, CEDAW, A/57/38 part I (2002) 31 at paras. 282, 283, 286 and 287.

282. The Committee is concerned that women who become pregnant as a result of rape or incest have to endure significant physical and mental torture.

283. The Committee encourages the State party to reintroduce legislation to permit termination of pregnancy in cases of rape, incest and congenital abnormality of the foetus.

...

286. The Committee is alarmed by the high and severe incidences of rape and other forms of violence targeted against Tamil women by the police and security forces in the conflict areas. While recognizing the prohibition of torture in the Constitution and the establishment of the inter-ministerial working group to counter these acts of violence, the Committee is concerned that victims in remote areas might be unaware of their rights and of the manner in which to seek redress.

287. The Committee urges the State party to monitor strictly the behaviour of the police and the security forces, to ensure that all perpetrators be brought to justice and to take all

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necessary measures to prevent acts of violence against all women.

- Russian Federation, CEDAW, A/57/38 part I (2002) 40 at paras. 391 and 392.

391. The Committee is concerned about reports of ill-treatment of women in pre-detention centres and in prisons. The Committee is deeply concerned by the fact that, despite credible evidence that police officials have used violence against women in custody, the State party has not, as a rule, investigated, disciplined or prosecuted offenders. The Committee is also disturbed by the fact that, despite strong evidence that members of the Russian forces have committed acts of rape or other sexual violence against women in the context of the armed conflict in Chechnya, the State party has failed to conduct the necessary investigations or hold anyone accountable in the vast majority of cases.

392. The Committee urges the State party to take necessary measures to ensure that custodial violence by officials, including acts of sexual violence against women and girls in detention or under investigation, are prosecuted and punished as grave crimes. It also urges the State party to adopt preventive measures, including swift disciplinary inquiries and human rights education programmes for the armed forces and law enforcement personnel.

### **CAT**

- Benin, CAT, A/57/44 (2002) 19 at paras. 34 and 35.

34. The Committee is concerned about the following:

(a) The absence of a definition of torture strictly in keeping with article 1 of the Convention, and the lack of specific penalties for the crime of torture, thus creating a gap that does not allow for the full implementation of the Convention;

...

(c) Overcrowding and deplorable physical conditions in prisons, particularly the lack of hygiene, adequate food or appropriate medical care, despite efforts by the State party and assistance from non-governmental organizations;

(d) The lack of attention paid to human rights, especially to the prohibition of torture, in training programmes for civilian and military law enforcement personnel and medical personnel, despite positive initiatives by the Benin Human Rights Commission and the Human Rights League;

...

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(f) The existence in Beninese legislation of legal provisions (arts. 327 and 328 of the Criminal Code) exonerating anyone found guilty of offences or crimes when such acts were ordered in accordance with the law or by a legitimate authority or were committed in self-defence, which is contrary to the provisions of article 2, paragraph 2, of the Convention with regard to torture;

(g) The lack of medical and psychological rehabilitation programmes for torture victims;

(h) The possibility of keeping female detainees *incommunicado* for three months;

(i) The danger that the Amnesty Law, adopted prior to the adoption of the Convention against Torture, might give rise to a situation of impunity.

...

35. The Committee recommends that:

(a) In order genuinely to fulfil its treaty obligations, the State party must adopt a definition of torture that is fully in keeping with article 1 of the Convention and must provide for appropriate penalties;

(b) Measures must be taken to establish regulations on the right of torture victims to fair and adequate compensation from the State and to set up programmes for victims' physical and psychological rehabilitation;

(c) The State party should adopt the necessary legislative measures to bring the provisions of the Criminal Code into line with article 2 of the Convention;

(d) The State party should strengthen human rights education and promotion activities, particularly on the prohibition of torture, for law enforcement officials and medical personnel;

...

(f) The Committee reminds the State party of its obligation to conduct immediate and impartial investigations and to prosecute persons suspected of human rights violations, particularly torture;

(g) The State party should continue to take steps to improve physical conditions in prisons and substantially to reduce the duration of *incommunicado* detention;

(h) The Committee encourages the State party to make the declarations provided for in articles 21 and 22 of the Convention, in order to give better effect to its good intentions to ensure respect for human rights in general and the prohibition of torture in particular.

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- Indonesia, CAT, A/57/44 (2002) 22 at paras. 40 and 42-45.

40. The Committee takes note of the following positive aspects:

(a) The ongoing efforts of the State party to reform the legal system and revise its Constitution and legislation in order to safeguard universal human rights, including the right not to be subjected to torture and other cruel, inhuman, or degrading treatment or punishment;

(b) The adoption of Act No. 26/2000 on the establishment of human rights courts, which have jurisdiction over gross violations of human rights, including torture, and the State's assurances that the human rights courts will be operational by early December 2001;

(c) The plans outlined by the representatives of the State party for the imminent finalization of new laws on the protection of victims and witnesses, and on the establishment of a Commission of Truth and Reconciliation to re-examine past cases of human rights violations which have had a significant impact on the nation;

...

(e) The recognition by the State party that eradication of torture is linked to overcoming a culture of violence within the army and the police, and the assurances that efforts to continue to work towards this goal are a high priority of the Government;

...

42. The Committee is concerned about:

(a) The large number of allegations of acts of torture and ill-treatment committed by members of the police forces, especially the mobile police units ("Brimob"), the army (TNI), and paramilitary groups reportedly linked to authorities, and in areas of armed conflict (Aceh, Papua, Maluku, etc.);

(b) Allegations of excessive use of force employed against demonstrators or for purposes of investigation;

(c) Allegations that paramilitary groups, reported to be perpetrators of torture and ill-treatment in Indonesia, are supported by some parts of the military, and sometimes reportedly are joined by military personnel;

(d) Allegations of numerous attacks directed against human rights defenders, sometimes leading to death;

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(e) Allegations that human rights abuses related to the Convention are sometimes committed by military personnel employed by businesses in Indonesia to protect their premises and to avoid labour disputes;

(f) Allegations of inadequate protection against rape and other forms of sexual violence, which are frequently alleged to be used as forms of torture and ill-treatment;

(g) The high number of persons reported to be suffering from the after-effects of torture and other forms of ill-treatment.

43. The Committee is also concerned about:

(a) A climate of impunity, promoted in part by the fact that there has been little progress in bringing to trial members of the military, the police or other State officials, particularly those holding senior positions, who are alleged to have planned, commanded and/or perpetrated acts of torture and ill-treatment;

(b) The failure of the State party to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture reported to the authorities, as well as to prosecute alleged offenders, as required in articles 12 and 13 of the Convention;

(c) The insufficient level of guarantees of the independence and impartiality of the National Commission on Human Rights (Komnas-HAM) which hinders it in fully carrying out its mandate, which includes sole responsibility under Law 2000/26 for conducting initial investigations relating to gross violations of human rights, including torture, prior to forwarding cases to the Attorney-General for prosecution. Because only the Attorney-General has the authority to decide whether to initiate criminal proceedings, the Committee is further concerned that all the reports of Komnas-HAM on preliminary investigations are not published, and that Komnas-HAM does not have the right to challenge a decision by the Attorney-General not to prosecute a case.

44. The Committee further expresses its concern about the following:

(a) The country's penal legislation does not adequately define the offence of torture in terms consistent with article 1 of the Convention; as a result, torture is not punishable by appropriate penalties in the criminal code of the State party, as required in article 4, paragraph 2, of the Convention. The Committee notes, in this regard, that the definition of torture in Law 2000/26 is not fully consistent with article 1 of the Convention;

(b) The geographical and time limitations on the mandate of the proposed ad hoc human



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rights court on East Timor;

(c) The inadequacy of measures to ensure that the second amendment to the 1945 Constitution, relating to the right not to be prosecuted based on retroactive law, will not apply to offences such as torture and crimes against humanity which under international law are already criminalized;

(d) The lack of adequate protection of witnesses and victims of torture, who can be subject to intimidation and abuse by officials;

(e) The length and terms of police custody, and the lack of adequate guarantees of the rights of persons deprived of liberty, including to notify a close relative or third party and to have access to medical assistance and counsel of their choice;

(f) In spite of the formal separation of the police and the military, the latter continues to be associated with allegations of torture and ill-treatment. The Committee is particularly concerned over the absence of habeas corpus for the military;

(g) Insufficient legal protection ensuring, as set out in article 3 of the Convention, that no person can be expelled, returned or extradited to another State where he/she would be in danger of being subjected to torture;

(h) The lack of response to communications sent by the Special Rapporteur on torture, as well as the fact that he has not been invited to visit by the State party, despite requests dating back to 1993;

(i) The inadequate cooperation with the Serious Crimes Unit of the United Nations Transitional Administration in East Timor (UNTAET);

(j) The absence of statistics and other information regarding torture and other forms of cruel, inhuman or degrading treatment or punishment, disaggregated by gender, ethnic group, geographical region, and type and location of detention.

45. The Committee recommends that the State party:

(a) Amend the penal legislation so that torture and other cruel, inhuman or degrading treatment or punishment are offences strictly prohibited under criminal law, in terms fully consistent with the definition contained in article 1 of the Convention. Adequate penalties, reflecting the seriousness of the crime, should be adopted;

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- (b) Establish an effective, reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill-treatment and torture by police and other officials and, where the findings so warrant, to prosecute and punish perpetrators, including senior officials;
- (c) Ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in paramilitary operations using torture will be appropriately prosecuted;
- (d) Take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas-HAM), and ensure that all its reports to the Attorney-General are published in a timely fashion;
- (e) Ensure that the proposed ad hoc human rights court for East Timor will have the capacity to consider the many human rights abuses which were alleged to have occurred there during the period between 1 January and 25 October 1999;
- (f) Ensure that crimes under international law such as torture and crimes against humanity committed in the past are investigated and, where appropriate, prosecuted in Indonesian courts;
- (g) Continue measures of police reform to strengthen the independence of the police from the military, as an independent civilian law enforcement agency;
- (h) Reduce the length of pre-trial detention, ensure adequate protection for witnesses and victims of torture and exclude any statement made under torture from consideration in any legal proceedings, except against the torturer;
- (i) Ensure that no person can be expelled, returned, or extradited to another State where there are substantial grounds for believing that that person would be in danger of being subjected to torture, in accordance with article 3;
- (j) Ensure that human rights defenders are protected from harassment, threats and other attacks;
- (k) Reinforce human rights education to provide guidelines and training, regarding in particular the prohibition of torture, for law enforcement officials, judges, and medical personnel;
- (l) Invite the Special Rapporteur on torture to visit its territories;

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(m) Fully cooperate with UNTAET, in particular by providing assistance in investigations or court proceedings in accordance with the memorandum of understanding signed in April 2000, including affording the members of the Serious Crimes Unit full access to relevant files, authorizing visits to Indonesia and East Timor, and transferring suspects for trials in East Timor;

(n) Take immediate steps to address the urgent need for rehabilitation of the large number of victims of torture and ill-treatment in the country...

- Israel, CAT, A/57/44 (2002) 27 at paras. 50-53.

50. The Committee welcomes the following:

(a) The September 1999 Supreme Court judgement in the case of *Public Committee against Torture in Israel v. The State of Israel* which held that the use of certain interrogation methods by the Israel Security Agency (ISA) involving the use of “moderate physical pressure” was illegal as it violated constitutional protection of the individual’s right to dignity;

(b) The issuance by authorities of the ISA of a directive to all personnel that the decision of the Court should be strictly adhered to in all investigations conducted by the ISA;

(c) The decision by the Government of Israel not to initiate legislation that would authorize the use of physical means in interrogations conducted by the police or the ISA;

...

(e) Israel’s regular contribution to the United Nations Voluntary Fund for Victims of Torture;

...

(g) The transfer, in 1994, of the responsibility for investigation of complaints against the ISA to the Ministry of Justice;

(h) The creation of a judicial commission of inquiry into the events of October 2000, which resulted in the death of 14 persons.

51. The Committee is fully aware of the difficult situation of unrest faced by Israel, particularly in the Occupied Territories, and understands its security concerns. While recognizing the right of Israel to protect its citizens from violence, it reiterates that no exceptional circumstances may be invoked as justification of torture (art. 2, para. 2, of the Convention).

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52. The Committee expresses concern about the following matters:

(a) While acknowledging the importance of the September 1999 Supreme Court decision, the Committee regrets certain of its consequences:

(i) The ruling does not contain a definite prohibition of torture;

(ii) The Court prohibits the use of sleep deprivation for the purpose of breaking the detainee, but stated that if it was merely incidental to interrogation, it was not unlawful. In practice, in cases of prolonged interrogation it is impossible to distinguish between the two conditions;

(iii) The Court indicated that ISA interrogators who use physical pressure in extreme circumstances (“ticking bomb cases”) might not be criminally liable as they may be able to rely on the “defence of necessity”;

(b) Despite the Israeli argument that all acts of torture, as defined in article 1 of the Convention, are criminal offences under Israeli law, the Committee remains unconvinced and reiterates its concern that torture as defined by the Convention has not yet been incorporated into domestic legislation;

(c) Allegations continue to be received concerning the use of interrogation methods by the ISA against Palestinian detainees that were prohibited by the September 1999 ruling of the Supreme Court;

(d) Torture and ill-treatment of Palestinian minors is alleged, in particular of those detained in the Gush Etzion police station...

(e) While noting a substantial decrease since the examination of its previous report in the number of persons held in administrative detention, the Committee continues to be concerned that administrative detention does not conform with article 16 of the Convention;

(f) The continued use of incommunicado detention, even in the case of children, is a matter of grave concern to the Committee;

(g) Despite the numerous allegations of torture and ill-treatment by law enforcement officials received by the Committee, very few prosecutions have been initiated against alleged perpetrators;

(h) While noting that according to the delegation any allegation of physical violence against

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a detainee is always treated and investigated as a criminal offence, the Committee is concerned that the Department for the Investigation of Police Misconduct (DIPM) may decide that a police officer or ISA investigator should only be subject to disciplinary action, in lieu of criminal proceedings. This may amount to a violation of article 7, paragraph 1, of the Convention;

(i) Israeli policies on closure may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (article 16 of the Convention);

(j) Israeli policies on house demolitions may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (article 16 of the Convention);

(k) The judicial practice of admitting objective evidence derived from an inadmissible confession is of concern to the Committee;

...

53. The Committee makes the following recommendations:

(a) The provisions of the Convention should be incorporated by legislation into the domestic law of Israel; in particular, a crime of torture as defined in article 1 of the Convention should be enacted;

(b) The practice of administrative detention in the Occupied Territories should be reviewed in order to ensure its conformity with article 16;

(c) The State party should review its laws and policies so as to ensure that all detainees, without exception, are brought promptly before a judge and are ensured prompt access to a lawyer;

(d) The State party should ensure that interrogation methods prohibited by the Convention are not utilized by either the police or the ISA in any circumstances;

(e) In view of the numerous allegations of torture and other ill-treatment by law enforcement personnel, the State party should take all necessary effective steps to prevent the crime of torture and other acts of cruel, inhuman or degrading treatment or punishment and institute effective complaint, investigative and prosecution mechanisms relating thereto;

(f) All victims of torture and ill-treatment should be granted effective access to appropriate rehabilitation and compensation measures;

(g) The State party should desist from the policies of closure and house demolition where

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they offend article 16 of the Convention;

(h) The State party should intensify human rights education and training activities, in particular concerning the Convention, for the ISA, the Israel Defence Forces, police and medical doctors;

(i) Necessity as a possible justification for the crime of torture should be removed from the domestic law;

(j) Such legislative measures as are necessary should be taken to ensure the exclusion of not merely a confession extorted by torture, but also any evidence derived from such confession;

(k) Israel should consider withdrawing its reservation to article 20 and declaring in favour of articles 21 and 22.

- Ukraine, CAT, A/57/44 (2002) 31 at paras. 56-58.

56. The Committee notes with appreciation:

(a) The ongoing efforts by the State party to reform its legislation, including the adoption of a new Criminal Code, which contains an article qualifying torture as a specific crime, the establishment of a new Constitutional Court, the enactment of new legislation relating to the protection of human rights and the adoption of a new Law on Immigration;

...

(e) The information included in the report that, by Act of 5 November 1998, Ukraine acknowledged the Committee's jurisdiction, as provided for by articles 21 and 22 of the Convention;

...

57. The Committee expresses its concern about the following:

(a) The numerous instances indicating that torture is still being regularly practised in the State party and that, according to the Commissioner for Human Rights, 30 per cent of prisoners are victims of torture;

(b) The forced deportation of four Uzbek nationals, members of the Uzbek opposition, who were at high risk of being subjected to torture and whose case was the subject of an urgent appeal by the Special Rapporteur on torture;

...

(d) The numerous convictions based on confessions and the criteria for the promotion of

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investigators which are said to include the number of solved crimes, which can lead to torture and ill-treatment of detainees or suspects to force them to “confess”;

(e) Failure on the part of the authorities to carry out prompt, impartial and thorough investigations into allegations of such acts and to prosecute and punish those responsible;

...

(i) Reported threats and harassment, including ill-treatment, of independent journalists and others who have raised allegations of abuses by officials;

(j) Overcrowding and lack of access to basic hygienic facilities and adequate medical care, as well as the high incidence of tuberculosis, in prisons and pre-trial detention centres;

(k) The lack of adequate training of police and prison personnel in their duties under the law and on the rights of detainees;

(l) Despite certain progress, the practise of bullying and hazing (*dedovshchina*) of young conscript soldiers is still widely practised in the armed forces.

58. The Committee recommends that the State party:

(a) Take effective measures to prevent acts of torture and ill-treatment in its territory, in view of the persistent reports that torture is still regularly practised;

(b) Deposit with the Secretary-General its declaration accepting the Committee’s competence with respect to articles 21 and 22 of the Convention and the removal of its reservation in regard to article 20;

(c) Ensure that its competent authorities strictly observe the principle enshrined in article 3 of the Convention not to expel, return or extradite a person to a State where he/she might be subject to torture;

(d) Establish its jurisdiction over offences of torture even if the offender is not a national of the State party, but is present in any territory under its jurisdiction and, where it does not exercise jurisdiction that it extradite the offender;

...

(f) Ensure that there is a legal prohibition against carrying out interrogations of detainees without the presence of a defence counsel of his/her choice;

...

(h) Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained through torture;

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(i) Take effective steps to establish a fully independent complaints mechanism to ensure prompt, independent and full investigations into allegations of torture, including numerous detailed allegations received from various non-governmental organizations, both national and international;

(j) Take effective measures to improve conditions in prisons and pre-trial detention centres, including those relating to space, various facilities and sanitation, and establish a system of inspection of prisons and detention centres by independent monitors, whose findings should be published;

...

(l) Expedite the process of training of law enforcement and medical personnel as to their duty to respect the rights and dignity of persons deprived of liberty;

...

(n) Adopt a more effective system to end the practise of bullying and hazing (*dedovshchina*) in the armed forces, through training and education, and prosecute and punish offenders;

(o) Establish a procedure for providing redress for victims of torture, including fair and adequate compensation;

...

- Zambia, CAT, A/57/44 (2002) at paras. 61 and 63-66.

61. The Committee notes with satisfaction the following elements:

(a) The State party's withdrawal of its reservation made with respect to article 20 of the Convention;

(b) The State party's commitment to:

(i) Introduce a crime of torture in accordance with article 4 of the Convention;

(ii) Proceed urgently with appropriate legislation and other measures to ensure the incorporation of the Convention into domestic law;

(iii) Ensure the exclusion of confessions obtained by torture and to look into the issue of derivative evidence;

(iv) Make a declaration with respect to articles 21 and 22 of the Convention;



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and

(v) Remove the function of prosecution from the police to the Director of Public Prosecutions (DPP);

(c) The enactment of the Zambia Police (Amendment) Act (No. 14 of 1999) which provides measures to protect and monitor persons in police custody;

...

(e) The legal prohibition of corporal punishment...

...

63. The Committee expresses concern about the continued allegations of widespread use of torture together with the apparent impunity enjoyed by its perpetrators.

64. The Committee notes with concern that the State party has neither incorporated the Convention into its legislation nor introduced corresponding provisions in respect of several articles, in particular:

(a) The definition of torture (art. 1);

(b) The criminalization of torture (art. 4);

(c) The prohibition of cruel punishment in the penal system (art. 16);

(d) Recognition of torture as an extraditable offence (art. 8);

(e) Systematic review of interrogation rules (art. 11); and

(f) Jurisdiction over acts of torture, including those committed abroad (art. 5).

65. Concern is also expressed regarding:

(a) The delay in investigating allegations of torture and in bringing suspects to timely trial;

...

66. The Committee recommends that the State party:

(a) Incorporate the Convention into its legal system;

(b) Adopt a definition of torture which is fully in keeping with article 1 of the Convention and provides for appropriate penalties;

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- (c) Take appropriate measures to ensure jurisdiction over crimes of torture, wherever they may occur;
  - (d) Undertake legal and other measures to address impunity and ensure that acts of torture are prosecuted to the full extent of the law and that complainants have access to legal advice as necessary;
  - (e) Undertake legal and other measures to ensure the systematic review of interrogation rules, instructions, methods and practices;
  - (f) Strengthen training and educational programmes for law enforcement personnel on the prohibition of torture;
  - (g) Establish rehabilitation centres for victims of torture;  
...
- Denmark, CAT, A/57/44 (2002) 37 at paras. 72-74.  
  
72. [The Committee]...notes with satisfaction:
    - (a) The adoption of the Amendment to the Act on the Administration of Justice, which has greatly tightened the controls over the use of solitary confinement, decreasing its use as well as providing for judicial control over solitary confinement while in remand;
    - (b) The circulars of the National Commissioner of Police, prescribing, *inter alia*, earlier access by family to detainees, mandatory medical examination of all persons placed in a detention cell, and access to a lawyer and an interpreter without delay;
    - (c) The adoption of legislation granting a more protective status to asylum seekers;
    - (d) The efforts made in educational programmes for the police;
    - (e) The multidisciplinary treatment of persons living in Denmark who have been victims of torture;
    - (f) The increase in the State party's contribution to the United Nations Voluntary Fund for Victims of Torture and the continued support to national rehabilitation centres for torture victims.

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73. The Committee is concerned about the following:

- (a) The lack of a definition of torture, as provided in article 1 of the Convention, in the penal legislation of the State party and the lack of a specific offence of torture punishable by appropriate penalties, as required by article 4, paragraph 2, of the Convention;
- (b) The lack of effective recourse procedures against decisions imposing solitary confinement upon persons servicing sentences;
- (c) The proposed amendment to the Alien's Act, which may imply that aliens who have been refused a residence permit must leave the country immediately after the rejection of their application. If strictly applied, this will frustrate the effectiveness of article 22 of the Convention.

74. The Committee recommends that:

- (a) The State party ensure the speedy implementation of the recommendation of the Ad Hoc Committee with regard to incorporating the Convention into Danish domestic law;
  - (b) Denmark establish adequate penal provisions to make torture as defined in article 1 of the Convention a punishable offence in accordance with article 4, paragraph 2, of the Convention;
  - (c) The State party continue to monitor the effects of solitary confinement on detainees and the effects of the new bill, which has reduced the number of grounds that can give rise to solitary confinement and its length;
  - (d) The law governing solitary confinement for convicted prisoners establish adequate review mechanisms relating to its determination and duration;
  - (e) The State party ensure that the proposed amendment to the Aliens Act does not frustrate effective recourse by aliens to the Committee as provided in article 22 of the Convention;
- ...

- Luxembourg, CAT, A/57/44 (2002) 39 at para. 80.

80. The Committee recommends that:

- (a) The State party refrain from placing minors in adult prisons for disciplinary purposes;

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(b) Solitary confinement be strictly and specifically regulated by law and that judicial supervision be strengthened, so that this punishment is applied only in severe circumstances, with a view to its abolition, particularly during pre-trial detention;

(c) The State party consider making provision for appropriate compensation specifically for victims of torture;

...

- Norway, CAT, A/57/44 (2002) 40 at paras. 84 and 86.

84. The Committee notes with satisfaction:

...

(c) The proposal to incorporate a new provision into the Penal Code that will prohibit and penalize torture, in conformity with article 1 of the Convention;

(d) The proposals made for an amendment to the Criminal Procedure Act to reduce the overall use of solitary confinement and to strengthen its judicial supervision by means of legal regulation and limitation;

...

(f) The regularity and generosity of donations made by the State party to the United Nations Voluntary Fund for Victims of Torture;

...

86. The Committee recommends that:

(a) Appropriate legislation introducing the offence of torture into the Norwegian penal system in conformity with article 1 of the Convention be enacted, in accordance with the abovementioned proposal...

- Russian Federation, CAT, A/57/44 (2002) 42 at paras. 89-95.

89. The Committee notes the following positive developments:

(a) The ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

...

(f) The Procurator General's Order No. 46, which requires the presence of representatives of the Prosecutor's Office during "special operations" carried out in Chechnya, and Order No.

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80 of the Commander of the Federal Forces of the North Caucasus, requiring troops to identify themselves, record detentions, notify relatives, and take other measures to safeguard civilians from abuse;

...

90. The Committee appreciates the frank explanations provided by the delegation regarding the difficulties still faced by the State party in overcoming the inheritance of a system characterized by "arbitrariness and impunity" and in building and strengthening democratic institutions and the rule of law. It notes that these challenges are compounded by "acts of terrorism" and threats to security. Nonetheless, the Committee reiterates that, in accordance with article 2 of the Convention, "no exceptional circumstance whatsoever... may be invoked as a justification of torture".

91. The Committee is deeply concerned over the following:

(a) Numerous and consistent allegations of widespread torture and other cruel, inhuman or degrading treatment or punishment of detainees committed by law enforcement personnel, commonly with a view to obtaining confessions;

(b) Continuing reports, despite the State party's considerable efforts to initiate dialogue and preventive safeguards such as a "hotline" for victims, of widespread "hazing" (*dedovshchina*) in the military, as well as torture and other cruel, inhuman or degrading treatment or punishment in the armed forces, conducted by or with the consent or approval of officers, resulting in severe physical and mental harm to the victims;

(c) A persistent pattern of impunity for torture and other ill-treatment benefiting both civil and military officials, a lack of reported decisions by judges to dismiss or return a case for further investigation citing the use of torture to obtain a confession, and the very small number of persons convicted of violations of the Convention.

92. The Committee also expresses its concern about the following:

(a) The failure to define torture in domestic law in conformity with article 1 of the Convention. The designation of torture as an aggravating circumstance for some enumerated crimes does not satisfy the requirements of articles 1 and 4 of the Convention;

(b) The numerous cases of convictions based on confessions and the law enforcement promotion system based on the percentage of crimes solved, which, taken together, reportedly create conditions that promote the use of torture and ill-treatment to force detainees to "confess";

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- (c) The lack of adequate access for persons deprived of liberty, immediately after they are apprehended, to counsel, doctor and family members, an all-important safeguard against torture;
- (d) The *de facto* refusal of judges to take account of evidence of torture and ill-treatment provided by the accused, resulting in the common to either investigate or prosecute such cases;
- (e) The explanation by the State party that, despite numerous allegations of violence against women in custody, no formal complaint has been received on this issue. Despite the State party's efforts to release prisoners and reduce their number in general, the population of women in custody has doubled in the past decade;
- (f) The lack of practical training about obligations under the Convention for doctors, law enforcement personnel and judges, and the military;
- (g) Distressing conditions of pre-trial detention, including the prevalence of tuberculosis and other diseases, as well as the poor and unsupervised conditions of detention in IVS (temporary police detention), and SIZOs (pre-trial establishment) facilities, including the practice of placing metal shutters in front of cell windows, preventing natural light and ventilation in the cells, reportedly because, by law, inmates are prohibited from communicating with one another;
- ...
- (i) Reports of conditions amounting to inhuman or degrading treatment, of children in institutions or places of detention;
- (j) A lack of safeguards to ensure that persons are not returned to countries where they face a real risk of torture (*non-refoulement*).

93. The Committee is particularly concerned over the following: in connection with the events in Chechnya:

- (a) Numerous, ongoing reports of severe violations of human rights and the Convention, including arbitrary detention, torture and ill-treatment, including forced confessions, extrajudicial killings, and forced disappearances, particularly during "special operations" or "sweeps", and the creation of illegal temporary detention centres, including "filtration camps". Allegations of brutal sexual violence are unusually common. Additionally, armed units which are reported to be very brutal towards civilians have been sent again into the conflict area;

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(b) Numerous armed units and forces operating under the authority of various departments and services in Chechnya, which hinder the identification of the personnel responsible for the reported abusive actions cited above;

(c) A lack of effective implementation of Orders Nos. 46 and 80, as referred to [in para. 89, above] among the positive aspects;

(d) The dual system of jurisdiction in Chechnya involving both military and civilian prosecutors and courts, which leads to long and unacceptable delays in registering cases, resulting in a cyclical process whereby case information and the responsibility for opening investigations continue to be passed from one official to another and back, without resulting in the initiation of prosecutions. The Committee notes with concern that it is impossible for the civil prosecutor to question military personnel and carry out investigations at military sites in order to collect the evidence required to oblige the military prosecutor's office to take up the case. Also of concern is the insufficient independence of military courts, prosecutors and judges, with the result that few cases are registered to prosecute officials alleged to be responsible for the abuses.

94. The Committee recommends that the State party:

(a) Promptly incorporate into domestic law the definition of torture as contained in article 1 of the Convention and characterize torture and other cruel, inhuman and degrading treatment as specific crimes with appropriate penalties in domestic law;

(b) Adopt measures to permit detainees access to a lawyer, doctor, and family members from the time they are taken into custody; inform suspects and witnesses of their rights at the beginning of detention; and ensure that legal assistance and a doctor will be provided at the request of detained persons rather than solely when permitted by officials. Urgent consideration should be given to making a medical examination compulsory for persons when they enter IVS and SIZOs, and to the establishment of a health service independent from the Ministries of Internal Affairs and Justice to conduct such examinations;

(c) Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture and review cases of convictions based solely on confessions, recognizing that many of them may have been obtained through torture or ill-treatment, and, as appropriate, provide compensation to and release persons presenting credible evidence of having been tortured or ill-treated;

(d) Improve conditions in prisons and pre-trial detention centres so that they are in conformity with the requirements of the Convention. The State party should ensure, in

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particular, that the prohibition of communication between inmates in pre-trial detention is not imposed on all inmates without distinction, but limited to identified inmates, when necessary and on the basis of a court decision setting a time limit for such conditions of detention;

(e) Establish a programme of unannounced inspections of pre-trial detention centres and other places of confinement, by credible impartial investigators, whose findings should be made public;

(f) Consider the creation of an independent body to inspect prisons, monitor all forms of violence in custody, including sexual violence against both men and women, and all forms of inter-prisoner violence, including proxy violence with the acquiescence of officials. The participation of public defenders in the investigation stage following detention would offer a safeguard for detainees;

(g) Ensure training about obligations under the Convention for (i) doctors to detect signs of torture or ill-treatment of persons who have been or are in custody, (ii) law enforcement personnel and judges to initiate prompt and impartial investigations, and (iii) military personnel to be aware of the prohibition of torture and that an order from a superior officer may not be invoked as a justification of torture;

(h) Request the Supreme Court to analyze the existing practices of the admissibility of cases of torture in the courts, in light of the definition of torture provided in article 1 of the Convention, and consider issuing guidelines on this matter;

(i) Ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecution and punishment, as appropriate, of perpetrators, as well as the protection of persons who complain of torture and their witnesses from retaliation;

(j) Distribute and ensure implementation of appropriate instructions to all relevant officials on the prohibition of ill-treatment and acts of torture against children in institutions and prisons under the jurisdiction of the State;

(k) Ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he/she would be in danger of being subjected to torture.

95. With regard to the situation in Chechnya, the Committee also recommends that the State party:



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- (a) Clarify the jurisdiction over the events in Chechnya, which currently have an uncertain status, as there is no state of exception and there is also a non-international armed conflict in progress. Such clarification could provide individuals with an effective means of seeking redress for any violations committed, so they will not be caught in a vicious circle of various military and civilian departments and agencies with differing degrees of responsibility;
  - (b) While a number of mechanisms have been put in place in Chechnya in connection with allegations of human rights violations, none has possessed the attributes associated with an independent impartial investigating body. Accordingly, the Committee reiterates its 1996 conclusion calling upon the Government of the State party to establish a credible impartial and "independent committee to investigate allegations of breaches of the Convention by the military forces of the Russian Federation and Chechen separatists, with a view to bringing to justice those against whom there is evidence that establishes their involvement or complicity in such acts" (A/52/44,para. 43(h));
  - (c) Ensure the effective implementation of Orders Nos. 46 and 80 and elaborate comprehensive guidelines on the conduct of sweep operations;
  - (d) Strengthen the powers of the Special Representative of the President for human and civil rights and freedoms in Chechnya to conduct investigations and make recommendations to the prosecutor as to possible criminal cases;
  - (e) Take steps to ensure civilian control over the army and ensure, in practice, that hazing, torture and ill-treatment are prohibited in the military, among conscripts and officers;
  - (f) Consider the formation of a joint investigative group of both military and civilian procuracy officials until specific responsibility can be identified and jurisdiction can be established.
- Saudi Arabia, CAT, A/57/44 (2002) 48 at paras. 99-101.

99. The Committee welcomes the following:

- (a) The State party's accession to the Convention against Torture on 23 September 1997, as well as its accession to several other core human rights treaties and its expressed intention to ratify the 1951 Convention on the Status of Refugees and its 1967 Protocol. The Committee also welcomes the State party's declaration that its domestic law, including its components based upon Shariah, is capable of giving full recognition to the rights and obligations contained in the Convention;

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...

(c) The State party's expression that its domestic law provides that no exceptional circumstances, including superior orders, may be invoked as a defence to a charge of torture, the reassurance that statements obtained by torture are inadmissible in proceedings, and the oral assurance that confessions are revocable at any point of proceedings...

(d) The competence of the Board of Grievances to hear allegations of violations of human rights, and that certain medical facilities possess appropriate forensic medical expertise for examination of alleged victims of torture. The Committee welcomes the establishment of a standing commission to investigate accusations concerning the subjection of any person to torture or other cruel, inhuman or degrading treatment or punishment during the arrest, detention and investigation of suspects;

...

100. The Committee is concerned about the following:

(a) While noting the State party's indication that Shariah expressly prohibits torture and other cruel and inhuman treatment, the State party's domestic law itself does not explicitly reflect this prohibition, nor does it impose criminal sanctions. The Committee considers that express incorporation in the State party's domestic law of the crime of torture, as defined in article 1 of the Convention, is necessary to signal the cardinal importance of this prohibition;

(b) The sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, that are not in conformity with the Convention;

(c) The different regimes applicable, in law and in practice, to nationals and foreigners in relation to their legal rights to be free from, and their ability to complain of, conduct in violation of the Convention. The Committee recalls that the Convention and its protections are applicable to all acts 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;

(d) Allegations of prolonged pre-trial detention of some individuals beyond the statutory limits prescribed by law, which heightens the risk of, and may on occasion of itself constitute, conduct in violation of the Convention. In this connection, the Committee expresses its concern at instances of denial, at times for extended periods, of consular access to detained foreigners. Moreover, the Committee is concerned at the limited degree of judicial supervision of pre-trial detention;

(e) Reports of *incommunicado* detention of detained persons, at times for extended periods,

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particularly during pre-trial investigations. The lack of access to external legal advice and medical assistance, as well as to family members, increases the likelihood that conduct violating the Convention will not be appropriately pursued and punished;

(f) The requirement of article 100 of the statute of the Directorate of Public Security for an investigating officer to endeavour "by judicious means" to ascertain the reasons for an individual's silence. While the article in question formally proscribes resort to torture or coercion, such a requirement unjustifiably heightens the risk of conduct violating the Convention;

(g) Cases of deportation of foreigners that have been drawn to the Committee's attention that seem to have been in breach of the obligations imposed by article 3 of the Convention;

(h) The jurisdiction of the *Mutawe'en* officials to pursue, *inter alia*, violations of the moral code and to proscribe conduct they identify as not conducive to public morality and safety. The Committee is concerned that the powers of these officials are vaguely defined by law, and that their activities may violate the Convention;

(i) The apparent failure of the State party to provide effective mechanisms to investigate complaints of breaches of the Convention;

(j) While noting the State party's institution of mechanisms for the purpose of providing compensation for conduct in violation of the Convention, as a practical matter, compensation appears to be rarely obtained, and full enjoyment of the rights guaranteed by the Convention is consequently limited.

101. The Committee recommends, in particular, that the State party:

(a) Expressly incorporate within its domestic law a crime of torture in terms that are consistent with article 1 of the Convention;

(b) Re-examine its imposition of corporal punishments, which are in breach of the Convention;

(c) Ensure that its laws are in practice applied to all persons, regardless of nationality, gender, religious affiliation or other distinction, insofar as issues arising under the Convention are concerned;

(d) Ensure that all places of detention or imprisonment conform to standards sufficient to guarantee that no person is thereby subjected to torture or cruel, inhuman or degrading

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treatment or punishment;

(e) Ensure that its law and practice reflect the obligations imposed by article 3 of the Convention;

(f) Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining full redress, including compensation, and that the persons who may be responsible for such violations are promptly and impartially investigated, and thereupon punished;

(g) Ensure that its *Mutawe'en* officials exercise a clear and precise jurisdiction, in conformity with the Convention and other applicable rules of non-discrimination, in a manner regulated by law and subject to review by ordinary judicial authority;

(h) Ensure, in practice, that persons detained in custody are able to exercise prompt access to legal and medical expertise of choice, to family members and, in the case of foreign nationals, to consular personnel;

(i) Ensure that the composition of the judiciary fully conforms to the standards imposed by the Basic Principles on the Independence of the Judiciary;

(j) Ensure that its training of law enforcement personnel includes education and information on the recognition of the physical consequences of torture consistent with that provided to a number of its medical personnel, in accordance with article 10 of the Convention;

...

- Sweden, CAT, A/57/44 (2002) 51 at paras. 105-108.

105. The Committee emphasizes with satisfaction the strong and steadfast commitment to human rights manifested by Sweden and the positive responses to the Committee's earlier recommendations. It welcomes in particular the following:

(a) The adoption of a national action plan for human rights for the years 2002-2004, as part of the follow-up to the 1993 World Conference on Human Rights, featuring as a priority topic the issue of international protection against persecution and torture. The Committee welcomes with satisfaction the plan of the Swedish authorities to translate the conclusions and recommendations of the six United Nations treaty monitoring bodies and to distribute them in municipalities;

...

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(d) The establishment of an official committee entrusted with the task of investigating the actions of the police during the events in Göteborg, and determining what steps the police should take on the occasion of public demonstrations to protect public order as well as the fundamental right to demonstrate;

(e) The setting up of a special commission to review legislation and case law relating to the application of decisions concerning expulsion from Swedish territory, especially in relation to allegations that individuals have been expelled to countries with which they have no significant ties;

(f) The many studies and projects under way aimed at enhancing the domestic legal system for the protection of human rights, in particular the jurisdiction of Swedish courts regarding international offences committed abroad, and the improvement of the procedure relating to requests for asylum;

(g) The assurance given by the Swedish authorities that they have acted in accordance with the Committee's observations concerning individual complaints and the State party's obligation not to send certain persons back to countries where there is a risk that they might be tortured. The Committee also welcomes the fact that the Alien Act contains a provision which will enable the Swedish immigration authorities to base their decisions directly on observations made by international bodies.

106. While the specific arrangements for giving effect to the Convention in the domestic legal system are left to the discretion of each State party, the means used must be appropriate, that is, they should produce results which indicate that the State party has fully discharged its obligations. Sweden has opted for the dualistic system as regards incorporation of international treaties into domestic law, and should therefore adopt appropriate legislation for the incorporation of the Convention against Torture. The Committee notes that Swedish domestic law does not contain a definition of torture in keeping with article 1 of the Convention. Above all, neither torture nor cruel, inhuman and degrading treatment are identified as specific crimes and offences in domestic criminal law.

107. The Committee also records its concern at the following:

(a) The allegation that some foreigners have been expelled or sent back to a country with which they have no significant ties, on the basis, *inter alia*, of linguistic criteria which are sometimes unsystematic, unreliable, and could lead to a breach of article 3 of the Convention;

(b) The Special Control of Foreigners Act, known as the anti-terrorism law, allows

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foreigners suspected of terrorism to be expelled under a procedure which might not be in keeping with the Convention, because there is no provision for appeal;

(c) Several cases of the excessive use of force by police personnel and prison guards, leading to the death of the persons concerned, have occurred in recent years in Sweden. In addition, the year 2001 was marked by the Göteborg riots, following which many complaints of ill-treatment were made;

(d) Allegations of imprecise, often subjective and inadequate guidelines and lack of training given to police personnel and prison guards regarding the use of force;

(e) Although the periodic report claims that statements obtained under duress cannot be used as evidence in proceedings, there seems to be no legislative rule which clearly spells out such a prohibition.

108. The Committee recommends that the State party should:

(a) Incorporate in its domestic law the definition of torture set out in article 1 of the Convention, and should characterize acts of torture and cruel, inhuman and degrading treatment as specific crimes, punishable by appropriate sanctions;

(b) Ensure that if foreigners are sent back, they are expelled to a country of their choice, or a country with which they have real ties and where there is no substantial ground for believing that they would be in danger of being subjected to torture;

(c) Bring the Special Control of Foreigners Act into line with the Convention;

(d) Strengthen the machinery for following up the guarantees of proper treatment offered by States to which foreigners are expelled;

(e) Undertake more comprehensive and detailed investigations into the human rights situation in the countries of origin of asylum-seekers;

(f) Ensure that all allegations of violations committed by police personnel and prison guards, and in particular any death in detention, are investigated promptly and impartially. Due attention should be paid to the conclusions and recommendations of the "Osmo Vallo Commission";

(g) Strengthen the human rights education programmes intended for police personnel, prison guards and other law enforcement officers, as well as training programmes relating to the

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application of the *Handbook of Police Procedures and Actions of Self-Defence*;

(h) Ensure that the prohibition on the use of statements obtained by torture as evidence in proceedings is clearly formulated in domestic law.

- Uzbekistan, CAT, A/57/44 (2002) 54 at paras. 113-116.

113. The Committee notes the following positive developments:

...

(c) The State party's reports of its efforts to draw up a new definition of torture that is consistent with the definition in article 1 of the Convention, and the introduction of a draft law in the parliament to allow citizen's complaints in matters of torture;

...

(f) The information conveyed by the State party's representative that responses were being developed to the findings of an official study into complaints filed with the Ombudsman's Office that had revealed a number of questionable judicial convictions, incidents of torture or ill-treatment by law enforcement officials, and inadequate supervision of the application of human rights norms by law enforcement agencies;

(g) The prosecution and sentencing in January 2002 of four police officials to prison terms for torture, and the statement by the State party's representative that this was a turning point signalling the State party's commitment to enforce the prohibition against torture in practice.

114. The Committee is aware of the difficulty of overcoming the inheritance of a totalitarian system in the transition towards a democratic form of governance, and that this is compounded by instability in the region. Nonetheless, the Committee stresses that such circumstances cannot be invoked as a justification of torture.

115. The Committee expresses concern about the following:

(a) The particularly numerous, ongoing and consistent allegations of particularly brutal acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel;

(b) The lack of adequate access for persons deprived of liberty, immediately after they are apprehended, to independent counsel, a doctor or medical examiner and family members, an important safeguard against torture;

...

(d) A lack of practical training for (i) doctors in the detection of signs of torture or ill-

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treatment of persons who have been or are in custody, and (ii) law enforcement personnel and judges in initiating prompt and impartial investigations;

...

(f) The *de facto* refusal of judges to take account of evidence of torture and ill-treatment provided by the accused, so that there are neither investigations nor prosecutions;

(g) The fact that the definition of torture in the Criminal Code of the State party is incomplete and, therefore, not in full conformity with article 1 of the Convention;

(h) The numerous cases of convictions based on confessions, and the continued use of the criterion of "solved crimes" as the basis for promotion of law enforcement personnel, which, taken together, create conditions that promote the use of torture and ill-treatment to force detainees to "confess";

(i) The absence of transparency in the criminal justice system and the lack of publicly available statistics on detainees, complaints about torture, and the number and results of investigations into such complaints...

(j) The extradition or expulsion of individuals, including those seeking asylum in Uzbekistan, to countries where they may be exposed to the risk of torture.

116. The Committee recommends that the State party:

(a) Proceed promptly with plans to review the proposals to amend its domestic penal law to include the crime of torture fully consistent with the definition contained in article 1 of the Convention and supported by an adequate penalty;

(b) Take urgent and effective steps: (i) to establish a fully independent complaints mechanism, outside the procuracy, for persons who are held in official custody; and (ii) to ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate, of perpetrators;

(c) Ensure that those who complain of torture and their witnesses are protected from retaliation;

(d) Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture;

...

(f) Adopt measures to permit detainees access to a lawyer, a doctor and family members from the time they are taken into custody and ensure that doctors will be provided at the



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request of detained persons without the need to obtain the permission of prison officials; and maintain a register with the names of all detainees, the times at which notifications of lawyers, doctors and family members have taken place and the results of medical examinations; this register should be accessible to the lawyers and others as appropriate;

(g) Improve conditions in prisons and pre-trial detention centres and establish a system allowing for unannounced inspections of those places by credible impartial investigators, whose findings should be made public. The State party should also take steps to shorten the current pre-trial detention period and provide independent judicial oversight of the period and conditions of pre-trial detention. Furthermore, the order for an arrest should be made only by a court;

(h) Ensure that law enforcement, judicial, medical and other personnel who are involved in custody, interrogation, treatment or who otherwise come into contact with detainees are trained with regard to the prohibition of torture and that the requalification procedure ("re-attestation") of those personnel include both verification of an awareness of the Convention's requirements and a review of their records in treating detainees;

...

(j) Review cases of convictions based solely on confessions in the period since Uzbekistan became a party to the Convention, recognizing that many of these may have been based upon evidence obtained through torture or ill-treatment, and, as appropriate, provide prompt and impartial investigations and take appropriate remedial measures;

(k) Ensure in the legislation and in practice that no one will be expelled, returned or extradited to a State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture;

(l) Consider making the declarations under articles 21 and 22 of the Convention;

...

- Cyprus, CAT, A/58/44 (2002) 21 at paras. 32 and 33.

32. The Committee notes with satisfaction that there are no reported cases of torture or political prisoners in the State party.

33. The Committee welcomes the recent legislative, administrative and institutional developments that took place in the State party since the consideration of its previous periodic report, namely:

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(a) The bill for the amendment of the Ratification Law making the subjection to cruel, inhuman or degrading treatment or punishment as described in article 16 of the Convention a criminal offence, and providing for the presumption of ill-treatment if it is ascertained by medical examination that the person detained bears external injuries which were not present at the time of arrest;

...

(g) The enactment of a new law for the payment of adequate compensation;

(h) The decision of the Council of Ministers to empower the Attorney-General to appoint criminal investigators to investigate allegations of criminal conduct by police;

...

(l) The establishment of a Police Human Rights Office to receive and investigate complaints of human rights violations by police officers;

...

- Egypt, CAT, A/58/44 (2002) 22 at paras. 39-42.

39. The Committee welcomes the following:

(a) The enactment of legislation banning flogging as a disciplinary penalty for prisoners;

...

(c) Decisions taken by the Egyptian courts to refuse any confession made under duress as evidence;

...

40. The Committee is aware of the difficulties that the State party faces in its prolonged fight against terrorism, but recalls that no exceptional circumstances whatsoever can be invoked as a justification for torture, and expresses concern at the possible restrictions of human rights which may result from measures taken for that purpose.

41. The Committee is concerned about the following:

...

(b) The many consistent reports received concerning the persistence of the phenomenon of torture and ill-treatment of detainees by law enforcement officials, and the absence of measures to ensure effective protection and prompt and impartial investigations. Many of these reports relate to numerous cases of deaths in custody;

(c) The Committee expresses particular concern at the widespread evidence of torture and ill-treatment in administrative premises under the control of the State Security Investigation Department, the infliction of which is reported to be facilitated by the lack of any mandatory

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inspection by an independent body of such premises;

(d) The many reports of abuse of under-age detainees, especially sexual harassment of girls, committed by law enforcement officials, the lack of monitoring machinery to investigate such abuse and prosecute those responsible, and the fact that minors kept in places of detention have contact with adult detainees;

(e) The reports received concerning ill-treatment inflicted on men because of their real or alleged homosexuality, apparently encouraged by the lack of adequate clarity in the penal legislation;

...

(g) The fact that victims of torture and ill-treatment have no direct access to the courts to lodge complaints against law enforcement officials;

(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;

...

(j) The significant disparities in compensation granted to the victims of torture and ill-treatment.

42. The Committee recommends that the State party:

...

(b) Adopt a definition of torture which fully corresponds to the definition in article 1, paragraph 1, of the Convention;

(c) Guarantee that all complaints of torture or ill-treatment, including those relating to death in custody, are investigated promptly, impartially and independently;

(d) Ensure that mandatory inspection of all places of detention by prosecutors, judges or another independent body takes place, and does so at regular intervals;

(e) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families;

(f) Eliminate all forms of administrative detention. In addition, the premises controlled by the State Security Investigation Department should be subject to mandatory inspection, and reports of torture or ill-treatment committed there should be investigated promptly and impartially;

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(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;

(h) Abolish *incommunicado* detention;

...

(j) Halt all practices involving abuse of minors in places of detention and punish the perpetrators, and ban the holding of under-age detainees with adult detainees;

(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;

(l) Establish the State's jurisdiction over all persons alleged to be responsible for torture who are present in the country and are not extradited to other States in order to be brought to justice, in accordance with the provisions of articles 5 to 8 of the Convention;

(m) Ensure that non-governmental organizations engaged in human rights work can pursue their activities unhindered, and in particular that they have access to all places of detention and prisons so as to guarantee greater compliance with the ban on torture and ill-treatment;

(n) Establish precise rules and standards to enable the victims of torture and ill-treatment to obtain full redress, while avoiding any insufficiently justified disparities in the compensation which is granted;

(o) Continue the process of training law enforcement personnel, in particular as regards the obligations set out in the Convention and the right of every detainee to medical and legal assistance and to have contact with his or her family;

(p) Consider adopting the declarations referred to in articles 21 and 22 of the Convention;

...

- Estonia, CAT, A/58/44 (2002) 26 at paras. 48-50.

48. The Committee notes the following positive developments:

...

(c) The possible direct applicability, under the Constitution, of the definition of torture set out in article 1 of the Convention;

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(d) The entry into force on 1 September 2002 of the new Penal Code, which introduces torture as an offence and aims at developing a flexible and individualized penal system that will increase the possibilities for the rehabilitation of prisoners by providing them with an opportunity to work or study;

(e) The improvement of prison conditions through, in particular, the suppression of special punishment cells, the renovation of detention facilities and the opening of the new Tartu prison, which will conform to recognized international standards. The Committee also welcomes the entry into force on 1 December 2000 of the Imprisonment Act, based on the “European Prison Rules”, as well as the power given to the Legal Chancellor and members of the Health Protection Office under the 2000 Internal Rules of Detention to have free access to all rooms in detention centres;

(f) The publication of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the responses by the State party, which will enable a general debate among all interested parties;

...

(i) The assurance given by the State party that due consideration will be given to the possible ratification of the Optional Protocol to the Convention.

49. The Committee is concerned that:

(a) Article 1 of the Convention has not yet been directly applied by magistrates, and that the direct application of international human rights treaties, although possible in theory, is not widely practised in the courts;

(b) The definition of torture contained in article 122 of the Penal Code as “continuous physical abuse or abuse which causes great pain” does not seem to comply fully with article 1 of the Convention. The Committee notes that, according to the delegation, article 122 protects physical as well as mental health, but is of the opinion that the wording of the article may lead to restrictive interpretations as well as confusion;

(c) Isolated cases of ill-treatment of detainees by officials still occur in police stations. Although violence, including sexual violence, between prisoners in detention facilities and between patients in psychiatric facilities has diminished, the high risk of such incidents still remains. Conditions in old police detention centres are still of concern;

(d) The point at which a suspect or detainee can obtain access to a doctor of choice - assuming one is available at all - is not clear. In any event, there are legal exceptions to the right to have access to a lawyer and to “a person of choice” that could be abused by police.

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In general, no precise time frame is set for the exercise of the rights of persons detained in police custody;

...

50. The Committee recommends that the State party:

(a) Incorporate into the Penal Code a definition of the crime of torture that fully and clearly responds to article 1 of the Convention, and provide extensive training for judges and lawyers on the content of the Convention as well as its status in domestic law;

(b) Ensure that law enforcement, judicial, medical and other personnel who are involved in the custody, detention, interrogation and treatment of detainees or psychiatric patients are trained with regard to the prohibition of torture and that their recertification includes both verification of their awareness of the Convention's requirements and a review of their records in treating detainees or patients. Training should include developing the skills needed to recognize the sequelae of torture;

(c) Ensure close monitoring of inter-prisoner and inter-patient violence, including sexual violence, in detention and psychiatric facilities, with a view to preventing them;

...

(e) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and ensure that, in law as well as in practice, persons in police custody and in remand have the right of access to a medical doctor of their choice, the right to notify a person of their choice of their detention and access to legal counsel. Legal exceptions to these rights should be narrowly defined. Persons deprived of their liberty, including suspects, should immediately be informed of their rights in a language that they understand. The right of criminal suspects to have a defence counsel should be extended to witnesses and to persons who have not yet been charged. The State party should introduce a precise chronology that would specify at what point the rights of all detainees may be exercised and must be respected;

...

- Spain, CAT, A/58/44 (2002) 29 at paras. 56-68.

56. The Committee welcomes with satisfaction the fact that under article 96 of the Spanish Constitution the Convention forms part of the domestic legal order and may be invoked directly before the courts.

57. The Committee reiterates, as stated in its previous conclusions and recommendations (A/53/44, paras. 119-136), that the Penal Code in force since 1996 conforms, generally

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speaking, to article 1 of the Convention. It welcomes with satisfaction the fact that article 57, as amended by Organization Act No. 14/1999 of 9 June, allows judges and courts in torture cases to add ancillary injunctions for the subsequent protection of the victim to the main sentence.

58. The Committee also notes with satisfaction:

...

(g) Regular donations to the United Nations Voluntary Fund for Victims of Torture.

59. The Committee is aware of the difficult situation confronting the State party as a result of the serious and frequent acts of violence and terrorism which threaten the security of the State, resulting in loss of life and damage to property. The Committee recognizes the right and the duty of the State to protect its citizens from such acts and to put an end to violence, and observes that its lawful reaction must be compatible with article 2, paragraph 2, of the Convention, whereby no exceptional circumstances whatsoever may be invoked as a justification of torture.

60. The Committee observes with concern the dichotomy between the assertion of the State party that, isolated cases apart, torture and ill-treatment do not occur in Spain (CAT/C/55/Add.5, para. 10) and the information received from non-governmental sources which reveals continued instances of torture and ill-treatment by the State security and police forces.

61. Of particular concern are the complaints concerning the treatment of immigrants, including sexual abuse and rape, allegedly on racist or xenophobic grounds. The Committee notes that Spain has become an important gateway to Europe for immigrants, and that this has meant a significant increase in the country's foreign population. In this context the omission from the definition of torture in article 174 of the Penal Code of torture "based on discrimination of any kind", notwithstanding the fact that, under the Code, racism is deemed to be an aggravating factor in any offence, takes on particular importance.

62. The Committee continues to be deeply concerned at the fact that *incommunicado* detention up to a maximum of five days has been maintained for specific categories of particularly serious offences. During this period, the detainee has no access to a lawyer or to a doctor of his choice nor is he able to notify his family. Although the State party explains that *incommunicado* detention does not involve the complete isolation of the detainee, who has access to an officially appointed lawyer and a forensic physician, the Committee considers that the *incommunicado* regime, regardless of the legal safeguards for its application, facilitates the commission of acts of torture and ill-treatment.

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63. The Committee also expresses its concern at the following:

(a) The substantial delays attending legal investigations into complaints of torture, which may lead to convicted persons being pardoned or not serving their sentences owing to the length of time since the offence was committed. This further delays the realization of the rights of victims to moral and material compensation;

(b) The failure of the administration, in some cases, to initiate disciplinary proceedings when criminal proceedings are in progress, pending the outcome of the latter. Delays in judicial proceedings may be such that, once criminal proceedings have concluded, disciplinary proceedings are time-barred;

(c) Cases of ill-treatment during enforced expulsion from the country, particularly in the case of unaccompanied minors;

(d) The severe conditions of imprisonment of some of the prisoners whose names appear on the list of inmates under close observation (FIES). According to information received, prisoners under level one of the close observation regime have to remain in their cells for most of the day, and in some cases are allowed only two hours in the yard, are excluded from group, sports and work activities, and are subjected to extreme security measures. Generally speaking, it would seem that the physical conditions of imprisonment of these prisoners are at variance with prison methods aimed at their rehabilitation and could be considered prohibited treatment under article 16 of the Convention.

64. The Committee recommends that the State party should consider the possibility of improving the definition of torture in article 174 of the Penal Code in order to bring it fully into line with article 1 of the Convention.

65. The Committee recommends that the State party should continue to take measures to prevent racist or xenophobic incidents.

66. The Committee invites the State party to consider precautionary measures to be used in cases of *incommunicado* detention, such as:

(a) A general practice of video recording of police interrogations with a view to protecting both the detainee and the officials, who could be wrongly accused of torture or ill-treatment. The recordings must be made available to the judge under whose jurisdiction the detainee is placed. Failure to do this would prevent any other statement attributed to the detainee from being considered as evidence;



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(b) A joint examination by a forensic physician and a physician chosen by the detainee held *incommunicado*.

67. The Committee reminds the State party of its obligation to carry out prompt and impartial investigations and to bring the alleged perpetrators of human rights violations, and of torture in particular, to justice.

68. The Committee recommends that the State party should ensure the initiation of disciplinary proceedings in cases of torture or ill-treatment, rather than await the outcome of criminal proceedings.

- Venezuela, CAT, A/58/44 (2002) 32 at paras. 76, 80 and 81.

76. The Committee welcomes with satisfaction the entry into force on 30 December 1999 of the new Constitution of the Bolivarian Republic of Venezuela, which demonstrates progress in human rights. In particular, the Committee considers as positive the following aspects of the Constitution:

...

(b) It recognizes the right of individuals to submit petitions or complaints to the international bodies established for the purpose in order to seek protection for their human rights. This recognition is in accordance with the declaration by the State party in 1994 under article 22 of the Convention;

...

(e) It imposes on the State the obligation to compensate in full victims of human rights violations and recognizes the right to rehabilitation of victims of torture and cruel, inhuman or degrading treatment inflicted or tolerated by agents of the State;

...

(g) It stipulates a series of safeguards for the detainee, such as access to a lawyer immediately on being detained and a ban on obtaining confessions by torture;

...

80. The Committee expresses its concern at the following:

(a) The failure, despite the extensive legal reforms undertaken by the State party, to classify torture as a specific offence in Venezuelan legislation in accordance with the definition in article 1 of the Convention;

(b) The numerous complaints of torture, cruel, inhuman and degrading treatment, abuse of authority and arbitrary acts committed by agents of State security bodies which render the protective provisions of the Constitution and the Code of Criminal Procedure inoperative;

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...

(e) Information on threats to and harassment of persons who bring complaints of ill-treatment against police officers and the lack of adequate protection for witnesses and victims;

(f) The absence of prompt and impartial investigations of complaints of torture and cruel, inhuman and degrading treatment, and the lack of an accessible, institutionalized procedure in order to ensure the right of victims of acts of torture to obtain redress and fair and adequate compensation, as article 14 of the Convention provides;

...

81. The Committee recommends that the State party should:

(a) Adopt legislation making torture a punishable offence. Pursuant to the fourth transitional provision of the new Constitution, this requires a special act or the reform of the Penal Code within a year of the establishment of the National Assembly; this period has long expired;

(b) Adopt all necessary measures to ensure immediate and impartial investigation of all cases of complaints of torture and cruel, inhuman or degrading treatment. The officials concerned should be suspended from their duties during these investigations;

(c) Adopt measures to regulate and institutionalize the right of victims of torture to fair and adequate compensation and draw up programmes for their physical and psychological rehabilitation to the fullest extent possible, as the Committee has already recommended in its previous conclusions and recommendations;

(d) Continue its activities of education in and promotion of human rights, particularly the prohibition of acts of torture, for law enforcement and medical personnel;

...

- Azerbaijan, CAT, A/58/44 (2003) 36 at paras. 87-89.

87. The Committee notes the following positive developments:

(a) The efforts by the State party to address the Committee's previous concluding observations through, in particular, the important Presidential Decree of 10 March 2000;

(b) The declaration under article 22 of the Convention enabling individuals to submit complaints to the Committee;

(c) The ratification of several significant human rights treaties, in particular the European

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Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

...

(e) The introduction of the offence of torture in the new Criminal Code, and the State party's report of some convictions for this crime;

...

88. The Committee is concerned about:

(a) Numerous ongoing allegations of torture and ill-treatment in police facilities and temporary detention facilities, as well as in remand centres and in prisons;

(b) The fact that the definition of torture in the new Criminal Code does not fully comply with article 1 of the Convention, because, inter alia, article 133 omits references to the purposes of torture outlined in the Convention, restricts acts of torture to systematic blows or other violent acts, and does not provide for criminal liability of officials who have given tacit consent to torture;

(c) The lack of information on the implementation of article 3 of the Convention regarding the transfer of a person to a country where he/she faces a real risk of torture, and on the rights and guarantees granted to the persons concerned;

...

(g) The lack, in many instances, of prompt and adequate access of persons in police custody or remand centres to independent counsel and a medical doctor, which is an important safeguard against torture; many persons in police custody are reportedly forced to renounce their right to a lawyer, and medical experts are provided only on the order of an official and not at the request of the detainee;

...

(j) The particularly strict regime applied to prisoners serving life sentences;

(k) Reports that the ability of detained persons to lodge a complaint is unduly limited by censorship of correspondence and by the failure of the authorities to ensure the protection of the complainants from reprisals;

(l) The reported failure of the State party to provide prompt, impartial and full investigations into the numerous allegations of torture and ill-treatment, as well as insufficient efforts to prosecute alleged offenders;

...

(n) The fact that very few victims have obtained compensation;

(o) Reports that, in many instances, judges refuse to deal with visible evidence of torture and

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ill-treatment of detainees and do not order independent medical examinations or return cases for further investigation.

89. The Committee recommends that the State party:

(a) Ensure that the offence of torture in national legislation fully complies with the definition provided in article 1 of the Convention;

...

(c) Clearly instruct police officers, investigative authorities and remand centre personnel that they must respect the right of detained persons to obtain access to a lawyer immediately following detention and a medical doctor on the request of the detainee, and not only after the written consent of detaining authorities has been obtained. The State party should ensure the full independence of medical experts;

...

(i) Ensure that all persons have the right to review of any decision about his/her extradition to a country where he/she faces a real risk of torture;

(j) Intensify efforts to educate and train police, prison staff, law enforcement personnel, judges and doctors on their obligations to protect from torture and ill-treatment all individuals who are in State custody. It is particularly important to train medical personnel to detect signs of torture or ill-treatment and to document such acts;

(k) Ensure the right of detainees to lodge a complaint by ensuring their access to an independent lawyer, by reviewing rules on censorship of correspondence and by guaranteeing in practice that complainants will be free from reprisals;

(l) Review the treatment of persons serving life sentences to ensure that it is in accordance with the Convention;

...

(n) Ensure that prompt, impartial and full investigations into all allegations of torture and ill-treatment are carried out and establish an independent body with the authority to receive and investigate all complaints of torture and other ill-treatment by officials. The State party should also ensure that the Presidential Decree of 10 March 2000 is implemented in this respect...

(o) Ensure that in practice, redress, compensation and rehabilitation are guaranteed to victims of torture;

(p) Widely disseminate in the country the reports submitted to the Committee, the conclusions and recommendations of the Committee, as well as the summary records of the

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review, in appropriate languages.

- Cambodia, CAT, A/58/44 (2003) 40 at paras. 98 and 99.

98. The Committee is concerned about the following:

(a) The numerous, ongoing and consistent allegations of acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel in police stations and prisons;

(b) Allegations regarding the expulsion of foreigners that seem to have occurred without taking into consideration the safeguards contained in article 3 of the Convention and, in particular, the situation of large numbers of Montagnard asylum-seekers in the Cambodian-Vietnamese border area;

(c) The absence in the domestic penal law of a clear prohibition of torture, although the Committee notes the State party's indication that it prohibits torture and has adopted the definition of torture contained in the Convention;

(d) Impunity for past and present violations of human rights committed by law enforcement officials and members of the armed forces and, in particular, the failure of the State party to investigate acts of torture and other cruel, inhuman or degrading treatment or punishment and to punish the perpetrators;

...

(h) The importance given to confessions in criminal proceedings and the reliance of the police and the judiciary on confessions to secure convictions;

(i) The unwarranted protraction of the pre-trial detention period during which detainees are more likely to be subjected to torture and other ill-treatment;

...

(l) The overcrowding and poor conditions in prisons, as well as alleged cases of ill-treatment of prisoners, and the difficulties faced by international organizations, NGOs and family members in gaining access to prisoners.

99. The Committee recommends that the State party:

(a) Incorporate in its domestic law the definition of torture set out in article 1 of the Convention and characterize acts of torture as a specific crime, punishable by appropriate sanctions;

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...

(c) Ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecution and punishment, as appropriate, of the perpetrators;

...

(e) Take all the necessary measures to ensure that the requirement of article 3 of the Convention is taken into consideration when deciding on the expulsion, return or extradition of foreigners;

(f) Take measures to ensure that evidence obtained under torture is not invoked in court;

...

(i) Take urgent measures to improve conditions of detention in police stations and prisons. It should, moreover, increase its efforts to remedy prison overcrowding and establish a systematic and independent system to monitor the treatment in practice of persons arrested, detained or imprisoned. In this connection, the State party should consider signing and ratifying the Optional Protocol to the Convention;

(j) Reinforce human rights education and promotion activities in general, and regarding the prohibition of torture in particular, for law enforcement officials and medical personnel, and introduce training in these subjects in official education programmes;

(k) Take measures to regulate and institutionalize the right of victims of torture to fair and adequate compensation and to establish programmes for their physical and mental rehabilitation;

...

(n) Ensure the wide distribution of these conclusions and recommendations throughout Cambodia, in all the major languages.

- Iceland, CAT, A/58/44 (2003) 43 at paras. 107, 109 and 110.

107. The Committee is still concerned by the fact that Icelandic law does not contain specific provisions ensuring that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, as required by article 15 of the Convention.

...

109. The Committee urges the State party to reconsider its previous recommendations, namely:

(a) The recommendation that torture be defined as a specific offence in Icelandic law;

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(b) The recommendation that legislation concerning evidence to be adduced in judicial proceedings be brought into line with the provisions of article 15 of the Convention so as to exclude explicitly any evidence obtained as a result of torture.

110. The Committee also recommends that:

(a) Doctors who are in contact with persons subjected to any form of arrest, detention or imprisonment be trained to recognize the *sequelae* of torture and in the rehabilitation of victims of torture or maltreatment;

...

- Slovenia, CAT, A/58/44 (2003) 44 at paras. 114-116.

114. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation so as to strengthen human rights in Slovenia. In particular, the Committee welcomes:

...

(d) The amendments to the Aliens Act and the Asylum Act, thereby bringing domestic legislation into line with article 3 of the Convention, as recommended by the Committee during the consideration of the initial report;

...

(g) Efforts undertaken by the State party in the sphere of educational and training activities in order to familiarize policemen and recruits participating in in-service training with international human rights standards, including the prevention of torture.

115. The Committee expresses concern about the following:

(a) Substantive criminal law does not contain a specific crime of torture, which, although referred to in the Criminal Code, remains undefined;

(b) Torture is subject to a statute of limitation; the period of limitation pertaining to acts of ill-treatment other than torture is too short;

(c) Reports concerning the lack of an independent system to investigate complaints and allegations of ill-treatment promptly and impartially;

...

(e) There is no adequate legal guarantee of the right of persons deprived of liberty to have access to a doctor of their choice from the outset of their custody. The Committee notes article 74 of the Rules on Police Powers that makes provision for medical assistance, but

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considers that this is not sufficient as a safeguard against ill-treatment and torture;

(f) There is no code of conduct for police interrogations to supplement the provisions of the Code of Criminal Procedure and the Police Act, with a view to preventing cases of torture and ill-treatment, as required by article 11 of the Convention;

...

116. The Committee recommends that the State party:

(a) Proceed promptly with plans to adopt a definition of torture which covers all the elements of that contained in article 1 of the Convention and amend its domestic penal law accordingly;

(b) Repeal the statute of limitation for torture and extend the limitation period for other types of ill-treatment;

(c) Take measures to establish an effective, reliable and independent complaints mechanism to undertake prompt and impartial investigations into allegations of ill-treatment or torture by police and other public officials and to punish the offenders;

...

(e) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and ensure that, in law as well as in practice, all persons deprived of their liberty are guaranteed the right to have access to an independent doctor. Privacy of medical examinations should be ensured;

...

(g) Widely disseminate the reports submitted by Slovenia to the Committee and the conclusions and recommendations, in appropriate languages, through official web sites, the media and non-governmental organizations.

- Turkey, CAT, A/58/44 (2003) 46 at paras. 120-123.

120. The Committee welcomes the following positive aspects:

...

(d) The inclusion in domestic legislation of the principle that evidence obtained through torture shall not be invoked as evidence in any proceedings;

...

(g) The acceptance, in a spirit of cooperation, by the State party of visits by monitoring bodies such as the special rapporteurs of the United Nations Commission on Human Rights and the release to the public of reports of CPT [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment].



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121. The Committee expresses concern about:

(a) Numerous and consistent allegations that torture and other cruel, inhuman or degrading treatment of detainees held in police custody are apparently still widespread in Turkey;

...

(d) Allegations that despite the number of complaints, the prosecution and punishment of members of security forces for torture and ill-treatment are rare, proceedings are exceedingly long, sentences are not commensurate with the gravity of the crime, and officers accused of torture are rarely suspended from duty during the investigation;

(e) The importance given to confessions in criminal proceedings and the reliance of the police and the judiciary on confessions to secure convictions;

(f) The alarming problems in prisons as a result of the introduction of the so-called “F-type prisons” which have led to hunger strikes causing the deaths of more than 60 inmates;

(g) The State party’s failure to comply fully with judgements of the European Court of Human Rights ordering the payment of just compensation.

122. The Committee is also concerned about:

(a) The lack of training of medical personnel dealing with detainees in matters relating to the prohibition of torture;

(b) Allegations according to which the expulsion of illegal aliens to their country of origin or to neighbouring countries is often accompanied by ill-treatment, in violation of the safeguards contained in article 3 of the Convention;

...

123. The Committee recommends that the State party:

(a) Ensure that detainees, including those held for offences under the jurisdiction of State Security Courts, benefit fully in practice from the available safeguards against ill-treatment and torture, particularly by guaranteeing their right to medical and legal assistance and to contact with their families;

(b) Take the necessary measures to guarantee that prompt, impartial and full investigations into the numerous allegations of torture and ill-treatment are carried out, and to ensure in this connection that an efficient and transparent complaint system exists;

(c) Repeal the statute of limitation for crimes involving torture, expedite the trials and

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appeals of public officials indicted for torture or ill-treatment, and ensure that members of the security forces under investigation or on trial for torture or ill-treatment are suspended from duty during the investigation and dismissed if they are convicted;

(d) Ensure that ongoing inspections of prisons and places of detention by judges, prosecutors or other independent bodies (such as prison monitoring boards) continue to take place at regular intervals and that appropriate action is taken by the responsible authorities in response to the inspection reports and recommendations;

(e) Guarantee that the detention records of detainees in police custody are properly kept from the outset of the custody period, including for the times they are removed from their cells, and that such records are made accessible to their families and lawyers;

(f) Solve the current problems in prisons generated by the introduction of “F-type prisons” by implementing the recommendations of CPT and by entering into serious dialogue with those inmates continuing hunger strikes;

(g) Review the current legislation and practice in order to ensure that the expulsion of irregular aliens is carried out with full respect for the legal guarantees required by international human rights standards, including the Convention;

(h) Ensure that fair and adequate compensation, including financial indemnification, rehabilitation, and medical and psychological treatment are provided to the victims of torture and ill-treatment;

...

(j) Include the prevention of torture in the Human Rights Education Programme of Turkey (1998-2007) and ensure that all the new developments in legislation are made widely known to all public authorities;

(k) Intensify training of medical personnel with regard to the obligations set out in the Convention, in particular in the detection of signs of torture or ill-treatment and the preparation of forensic reports in accordance with the Istanbul Protocol;

...

- Belgium, CAT, A/58/44 (2003) 49 at paras. 128-131.

128. The Committee notes with satisfaction the following elements:

(a) The ratification of the Convention without reservations and the recognition of the

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Committee's competence to consider inter-State and individual complaints (arts. 21 and 22);

(b) The adoption on 14 June 2002 of the Act bringing Belgian law into line with the Convention and introducing in the Penal Code articles on torture and inhuman or degrading treatment stating that an order by a superior cannot justify the offences of torture or inhuman treatment;

...

129. The Committee is concerned about:

(a) The lack of explanations concerning the concept of a "manifestly unlawful order" and the fact that an official having subjected a person to degrading treatment may be relieved of criminal responsibility under article 70 of the Penal Code if he or she was following the order of a superior;

(b) The lack of a legal provision clearly prohibiting the invocation of a state of necessity as a justification of torture;

(c) Cases of the excessive use of force during public demonstrations and expulsions of foreigners;

...

(g) The reform on 23 April 2003 of the rules governing the exercise of universal jurisdiction by Belgian courts in cases involving serious violations of international humanitarian law, authorizing the Minister of Justice in some circumstances to remove a Belgian judge from a case;

...

(n) The lack of training for prison administrative staff, including medical staff, in particular on the prohibition of torture and inhuman or degrading treatment, owing especially to the lack of resources earmarked for that purpose;

(o) The fact that rules on the exclusion of evidence obtained as a result of torture have emerged only from the decisions of the courts, and that judges seem to retain discretionary power in that regard.

130. While the Committee welcomes the decision of the Belgian authorities to extend the definition of torture and inhuman or degrading treatment to the commission of such acts by non-State actors, even those acting without the consent of a State agent, it recommends that the Belgian authorities ensure that all elements of the definition contained in article 1 of the Convention are included in the general definition provided by Belgian criminal law.

131. The Committee recommends that the State party:

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(a) Ensure that officials who have subjected any person to degrading treatment are liable to criminal penalties, even though they may have acted on the order of a superior, and explain the concept of a “manifestly unlawful order”;

(b) Include a provision in the Penal Code expressly prohibiting the invocation of a state of necessity to justify the violation of the right not to be subjected to torture;

(c) Ensure that the guidelines on the use of force during public demonstrations and expulsions of foreigners are fully in keeping with the requirements of the Convention, guarantee their full implementation and conduct immediate inquiries into any allegations of the excessive use of force by law enforcement officials;

(d) Give suspensive effect not only to emergency remedies applied for but also to appeals filed by any foreigner against whom an expulsion order is issued and who claims that he or she faces the risk of being subjected to torture in the country to which he or she is to be returned;

...

(f) Ensure respect for the principle of the independence of Belgian courts from the executive branch, in particular where the exercise of universal jurisdiction in relation to serious violations of international humanitarian law is concerned;

...

(m) Guarantee the training of prison administrative staff, including medical staff, in the prohibition of torture and inhuman or degrading treatment;

(n) Clearly state in national legislation that evidence obtained under torture is automatically inadmissible and must therefore not be submitted for consideration by the court itself.

- Republic of Moldova, CAT, A/58/44 (2003) 53 at paras. 137-139.

137. The Committee welcomes the following positive aspects:

(a) The indications given by the State party’s delegation that the new Criminal Code will provide a legal framework for more humane treatment of detainees;

(b) The fact that the State party has agreed to publicize the reports and responses resulting from the visits of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Furthermore, the State party has established a specialized Standing Coordinating Committee in regard to the matters dealt with by CPT;

...

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(d) The acceptance of article 20 of the Convention.

138. The Committee expresses concern about:

(a) The numerous and consistent allegations of acts of torture and other cruel, inhuman or degrading treatment or punishment of detainees in police custody;

(b) The reported lack of prompt and adequate access by persons in police custody to legal and medical assistance, and to family members;

(c) The deletion in the new Criminal Code of the definition of torture, which was in conformity with that of the Convention;

...

(e) The reported failure of the State party to ensure prompt, impartial and full investigations into the numerous allegations of torture and ill-treatment, thereby contributing to a culture of impunity among law enforcement officials;

...

(i) Allegations concerning the heavy emphasis put on confessions as a primary source of evidence in criminal proceedings;

...

(k) Allegations regarding the expulsion of aliens that seem to occur without taking into consideration the safeguards contained in article 3 of the Convention;

...

(m) The lack of training in the prevention of torture of law enforcement personnel, including doctors dealing with persons deprived of their liberty.

139. The Committee recommends that the State party:

(a) Ensure that the fundamental safeguards against torture and ill-treatment of detainees, including those held for administrative offences, are available in practice, including their right to medical assistance and legal counsel and to contact with their families from the earliest stages of their detention;

(b) Incorporate in the new Criminal Code a definition of torture as a separate crime that is in conformity with article 1 of the Convention;

(c) Ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, the prosecution and punishment of the perpetrators, as appropriate, and the provision of just compensation for the victims;

...

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- (g) Take measures to ensure that evidence obtained under torture is not invoked in court;
- (h) Take measures to ensure that the requirement of article 3 of the Convention is taken into consideration when deciding on the expulsion, return or extradition of aliens;  
...
- (j) Issue directives on the proper conduct of interrogations of persons in police custody, including the total prohibition of ill-treatment and torture;  
...
- (l) Improve the conditions of detention in police stations and prisons so as to bring them into conformity with article 16 of the Convention, and establish an independent and systematic system to monitor the treatment in practice of persons arrested, detained or imprisoned;
- (m) Reinforce human rights education and promotion activities regarding the prohibition of torture, particularly for law enforcement and medical personnel, and introduce training in these subjects in official education programmes;  
...

- Cameroon, CAT, A/59/44 (2003) 23 at paras. 40-42 and 44-46.

40. The Committee recalls that, in 2000, it found that torture seemed to be a very widespread practice in Cameroon, and expresses concern at reports that this situation still exists. It is troubled by the sharp contradictions between consistent allegations of serious violations of the Convention and the information provided by the State party. In particular, the Committee declares serious concern about:

- (a) Reports of the systematic use of torture in police and gendarmerie stations after arrest;
- (b) The continued existence of extreme overcrowding in Cameroonian prisons, in which living and hygiene conditions would appear to endanger the health and lives of prisoners and are tantamount to inhuman and degrading treatment. Medical care reportedly has to be paid for, and the separation of men and women is not always ensured in practice. The Committee notes with particular concern the large number of deaths at Douala central prison since the beginning of the year (25 according to the State party, 72 according to non-governmental organizations);
- (c) Reports of torture, ill-treatment and arbitrary detention perpetrated under the responsibility of certain traditional chiefs, sometimes with the support of the forces of law and order.

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41. The Committee notes with concern that:

...

(g) The system of supervision of places of detention is not effective, responsibility for prison administration lies with the Ministry of Territorial Administration. The prison supervisory commissions have been unable to meet regularly and, according to some reports, public prosecutors and the National Committee on Human Rights and Freedoms seldom visit places of detention;

(h) The concept of a "manifestly illegal order" lacks precision and is liable to restrict the scope of application of article 2, paragraph 3, of the Convention;

(i) Appeals to the competent administrative court against deportation orders are not suspensive, and this may lead to a violation of article 3 of the Convention.

42. The Committee, while welcoming the effort made by the State party to transmit information relating to the prosecution of State officials responsible for violations of human rights, is concerned about reports of the impunity of perpetrators of acts of torture. It is particularly worried about:

(a) The fact that gendarmes can be prosecuted for offences committed in the line of duty only with the authorization of the Ministry of Defence;

(b) Reports that proceedings have actually been initiated against perpetrators of torture only in cases where the death of the victim was followed by public demonstrations;

(c) The fact that the case of the "Bépanda nine" remains unsolved;

(d) The reluctance of victims or their relatives to lodge complaints, through ignorance, distrust or fear of reprisals;

(e) Reports that evidence obtained through torture is admissible in the courts.

...

44. The Committee urges the State party to take all necessary measures to end the practice of torture on its territory. It recommends that the State party should:

(a) Immediately end torture in police and gendarmerie stations and prisons. It should ensure effective supervision of these places of detention, permit NGOs to visit them and give more authority to the prison supervision commissions. The National Committee on Human Rights and Freedoms and public prosecutors should pay more frequent visits to all places of detention;

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(b) Immediately launch an independent investigation into the deaths at Douala central prison since the beginning of the year and bring those responsible to justice;

(c) Adopt urgent measures to reduce overcrowding in prisons. The State party should enact a law establishing the maximum duration of pre-trial detention, and consider immediately releasing offenders or suspects imprisoned for the first time for petty offences, particularly if they are under 18 years of age; such persons should not be imprisoned until the problem of prison overcrowding has been solved;

(d) Guarantee free medical care in prisons, ensure the right of prisoners to adequate food in practice, and effectively separate men and women;

(e) Immediately end the torture, ill-treatment and arbitrary detention perpetrated under the responsibility of the traditional chiefs in the north. The Committee notes the delegation's assurance that proceedings have been brought in such cases and urges the State party to step up its efforts in this direction. The peoples concerned should be duly informed of their rights and of the limits on the authority and powers of these traditional chiefs.

45. The Committee further recommends that the State party should:

(a) Adopt, as a matter of great urgency, and ensure the effective implementation of a law establishing the right of all persons held in police custody, during the initial hours of detention, of access to a lawyer of their choice and an independent doctor, and to inform their relatives of their detention. The Committee remarks that any extension of detention in custody ought to be approved by a judge;

...

(f) Clarify the concept of a "manifestly illegal order", so that State employees, in particular police officers, members of the armed forces, prison guards, magistrates and lawyers, are clearly aware of the implications. Specific training on this point should be offered;

(g) Allow appeals by foreigners against decisions by the administrative court to confirm deportation orders to stay execution.

46. The Committee recommends that the State should greatly increase its efforts to end the impunity of perpetrators of acts of torture, in particular by:

(a) Removing all restrictions, notably by the Ministry of Defence, on the prosecution of gendarmes and by giving the ordinary courts jurisdiction to try offences committed by gendarmes in the line of policy duty;



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(b) Pursuing its inquiry into the case of the "Bépanda nine". The Committee also recommends a thorough investigation of the activities of the Douala operational command while it was in operation and, by extension, the activities of all anti-gang units that are still functioning;

(c) Ensuring that its authorities immediately undertake an impartial investigation whenever there is reasonable ground to believe that an act of torture has been committed. The Committee recommends an independent body with the authority to receive and investigate all allegations of torture and other ill-treatment at the hands of State employees;

(d) Ensuring the protection of victims and witnesses against any intimidation or ill-treatment, and by informing the public of their rights, notably with regard to complaints against State employees;

(e) Adopting, as soon as possible, and ensuring the practical enforcement of a law making evidence obtained under torture inadmissible in all proceedings.

- Colombia, CAT, A/59/44 (2003) 32 at paras. 62 and 64-69.

62. The Committee notes with satisfaction the State party's adoption of a number of domestic laws of relevance to the prevention and suppression of torture and ill-treatment, in particular:

(a) The new Penal Code (Act No. 599/2000), which defines the offences of torture, genocide, forced disappearance and forced displacement and states that due obedience will not be considered as justifying those offences;

(b) The new Military Penal Code (Act No. 522/1999), which excludes the offences of torture, genocide and forced disappearance from the jurisdiction of the military criminal courts and regulates the principle of due obedience;

...

(d) The new Code of Penal Procedure (Act No. 600/2000), title VI whereof provides that illegally obtained evidence will be inadmissible.

...

64. ...[T]he Committee expresses its satisfaction at:

(a) The statement by the State party's representative that there neither has been nor will be any amnesty or clemency in the State party for acts of torture;

...

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65. The Committee is aware of the difficulties with respect to human rights and international humanitarian law arising from the current complex situation in the country, especially in a context characterized by the activities of illegal armed groups. The Committee nonetheless reiterates that, as stated in article 2 of the Convention, no exceptional circumstances whatsoever may be invoked as a justification of torture.

66. The Committee reiterates its concern at the numerous acts of torture and ill-treatment reported widely and systematically committed by the State security forces and organs in the State party both during and outside armed operations. It also expresses its concern at the high number of forced disappearances and arbitrary executions.

67. The Committee expresses its concern that measures adopted or being adopted by the State party against terrorism and illegal armed groups could encourage the practice of torture. In this regard the Committee expresses its concern, in particular, at:

(a) The recruitment of part-time "peasant soldiers", who continue to live in their communities but participate in armed action against guerrillas, so that they and their communities may be the target of action by the illegal armed groups, including acts of torture and ill-treatment;

(b) Constitutional reform bill No. 223/2003, which, if adopted, would seem to confer judicial powers on the armed forces and enable persons to be detained and questioned for up to 36 hours without being brought before a judge.

68. The Committee also expresses its concern at:

(a) The climate of impunity that surrounds human rights violations by State security forces and organs and, in particular, the absence of prompt, impartial and thorough investigation of the numerous acts of torture or other cruel, inhuman or degrading treatment or punishment and the absence of redress and adequate compensation for the victims;

(b) The allegations of tolerance, support or acquiescence by the State party's agents concerning the activities of the paramilitary groups known as "self-defence groups", which are responsible for a great deal of torture or ill-treatment;

(c) The judicial reform bill, should it be approved, would reportedly provide for constitutional limitation of *amparo* proceedings and reduce the powers of the Constitutional Court, particularly with respect to the review of declarations of states of emergency. Similarly, the Committee expresses its concern at the "alternative penalties" bill, which, if approved, would, even if they had committed torture or other serious breaches of international humanitarian law, grant conditional suspension of their sentences to members

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of armed groups who voluntarily laid down their arms;

(d) The allegations and information indicating:

...

(ii) Inadequate protection against rape and other forms of sexual violence, which are allegedly frequently used as forms of torture or ill-treatment. The Committee further expresses its concern at the fact that the new Military Penal Code does not expressly exclude sexual offences from the jurisdiction of the military courts;

(iii) The fact that the military courts are allegedly still, despite the promulgation of the new Military Penal Code and the Constitutional Court's decision of 1997 that crimes against humanity did not fall within the jurisdiction of the military courts, investigating offences that are totally excluded from their competence, such as torture, genocide and forced disappearance in which members of the police or armed forces are suspected of having been involved;

(iv) The widespread, serious attacks on human rights defenders, who are playing an essential role in reporting torture and ill-treatment; in addition, the repeated attacks on members of the judiciary, threatening their independence and physical integrity;

...

(f) The overcrowding and poor conditions in penal establishments, which could be considered inhuman or degrading treatment;

(g) The absence of information on the application of article 11 of the Convention as regards the State party's arrangements for the custody and treatment of persons subjected to arrest, detention or imprisonment, and the reports received by the Committee to the effect that the State party is failing to discharge its obligations in this respect;

(h) The lack of satisfactory information concerning the rules in the State party's law for ensuring the application of article 3 of the Convention to cases of *refoulement* or expulsion of aliens in danger of being tortured in the country of destination.

69. The Committee recommends that the State party take all necessary measures to prevent the acts of torture and ill-treatment that are being committed in its territory, and in particular that it:

(a) Take firm steps to end impunity for persons thought to be responsible for acts of torture or ill-treatment; carry out prompt, impartial and thorough investigations; bring the perpetrators of torture and inhuman treatment to justice; and provide adequate compensation for the victims. It recommends in particular that the State party reconsider in the light of its

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obligations under the Convention the adoption of the "alternative penalties" bill;

(b) Reconsider also, in the light of its obligation to prevent torture and ill-treatment under the Convention:

(i) The use of "peasant soldiers";

(ii) The adoption of measures that appear to give military forces powers of criminal investigation under which suspects can be detained for long periods without judicial control;

(iii) The judicial reform bill, so as to provide full protection for *amparo* proceedings and respect and promote the role of the Constitutional Court in defending the rule of law;

(c) Ensure that anyone, especially any public servant, who backs, plans, foments, finances or in any way participates in operations by paramilitary groups, known as "self-defence groups", responsible for torture is identified, arrested, suspended from duty and brought to justice;

...

(e) Investigate, prosecute and punish those responsible for rape and other forms of sexual violence, including rape and sexual violence that occur in the framework of operations against illegal armed groups;

(f) That in cases of violation of the right to life any signs of torture, especially sexual violence, that the victim may show be documented. That evidence should be included in forensic reports so that the investigation may cover not only the homicide but also the torture. The Committee also recommends that the State party provide medical staff with the training necessary to determine when torture or ill-treatment of any kind has occurred;

(g) Respect the provisions of the Military Penal Code that exclude cases of torture from the jurisdiction of the military courts and ensure that those provisions are respected in practice;

(h) Take effective measures to protect human rights defenders against harassment, threats and other attacks and report on any judicial decisions and any other measures taken in that regard. The Committee also recommends the adoption of effective measures for the protection of the physical integrity and independence of members of the judiciary;

(i) Take effective measures to improve conditions in places of detention and to reduce overcrowding there;

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(j) Ensure, so as to preclude all instances of torture or cruel, inhuman or degrading punishment, that persons subjected to any form of arrest, detention or imprisonment are treated according to international standards;

- Latvia, CAT, A/59/44 (2003) 48 at paras. 100 and 101.

100. The Committee expresses concern about the following:

(a) Allegations of serious ill-treatment of persons which in some cases could be considered as amounting to torture, by members of the police, especially at the time of apprehension and interrogation of suspects;

(b) The lack of independence and impartiality of the Internal Security Office of the State Police, which is competent to deal with complaints on alleged violence by police officers;

(c) The conditions of detention in places of deprivation of liberty, especially police stations and short-term detention isolators;

(d) The length of legal proceedings and the excessive periods of pre-trial detention, especially in short-term detention isolators;

(e) The fact that the new Asylum Law stipulates that neither "alternative status" for asylum-seekers shall be granted to a person who has arrived in Latvia from a country in which he/she could have asked for and received protection. Furthermore, the Committee is concerned at the long periods that asylum-seekers may spend in detention after the rejection of their asylum request;

(f) The overcrowding in prisons and other places of detention, taking into account, *inter alia*, the potential risk of this situation for the spread of contagious diseases;

(g) The fact that although the draft new Criminal Procedure Law has addressed many of the existing shortcomings, the Criminal Procedure Law currently in force does not include the right of a detainee to contact family members. Concern is also expressed about the information that access to a doctor of choice is subject to the approval of the authorities;

...

101. The Committee recommends that the State party:

(a) Take all appropriate measures to prevent acts of ill-treatment by members of the police and ensure that all allegations of ill-treatment are investigated promptly and impartially;

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(b) Improve conditions in places of deprivation of liberty, especially police stations and short-term detention isolators, and ensure that they conform to international standards;

(c) Guarantee that detainees in police custody have the right to contact their families and have access to a medical doctor of their choice and to legal counsel from the outset of their deprivation of liberty;

(d) Take all appropriate steps to shorten the length of legal proceedings and the current pre-trial detention period;

(e) Introduce legally enforceable time limits for the detention of rejected asylum-seekers who are under expulsion orders...

(f) Continue to take measures to address overcrowding in prisons and other places of detention;

...

(h) Ensure that the draft code of conduct for police interrogation ("Police Ethics Code") is speedily adopted;

(i) Take measures to ensure that in all circumstances the crime of torture is explicitly included among the crimes for which article 34 of the Criminal Law excludes the defence of superior orders;

...

- Lithuania, CAT, A/59/44 (2003) 52 at paras. 108-110.

108. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation in order to safeguard fundamental human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, including:

(a) The adoption of a new Criminal Code and Code of Criminal Procedure which prohibit the use of violence, intimidation, degrading treatment or treatment impairing a person's health, and a Code of Enforcement of Punishments, all of which entered into force on 1 May 2003;

...

(d) The Law on the Establishment of Administrative Tribunals (1999) providing for the examination of complaints concerning acts, actions or omissions of public officials;

...

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(f) The ratification of several human rights treaties, notably the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and ongoing cooperation with the Committee for the Prevention of Torture;

...

109. The Committee expresses concern about the following:

(a) The absence of a comprehensive definition of torture as set out in article 1 of the Convention, and lack of a specific criminal offence of torture in criminal law (art. 4);

...

(c) Allegations of ill-treatment of persons in custody that may amount to torture, particularly any that may take place during police interviews;

(d) Procedures related to expulsion of foreigners which in some instances may be in breach of article 3; the conditions in the facilities where foreigners awaiting expulsion are kept and the absence of data on the age, sex and country of destination of expelled foreigners or stateless persons, specifically those at the Foreigners Registration Centre;

(e) The large increase in complaints about the treatment of prisoners by the police (largely due to the State's own positive efforts to make the complaint process more confidential) and that, according to the State party, almost half of such complaints have been upheld. The Committee is further concerned that investigations into allegations against police officers are not conducted by a body independent of the police;

(f) Reports that some State-appointed lawyers have shown little interest in how their clients who are detained are treated;

(g) The lack of information on compensation and rehabilitation provided to victims of torture and/or ill-treatment;

(h) That conditions in places of detention are poor, as acknowledged by the State party, and that some prisoners "live in fear" of inter-prisoner violence, as noted by the European Committee to Prevent Torture;

(i) The lack of information provided regarding allegations of brutality against conscripts in the army.

110. The Committee recommends that the State party:

(a) Adopt a definition of torture that covers all the elements contained in article 1 of the Convention and incorporate into the Penal Code a definition of a crime of torture that clearly

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responds to this definition;

...

(c) Take all appropriate measures to prevent acts of torture and ill-treatment by, *inter alia*:

(i) Ensuring that health-care personnel are trained to identify signs of physical and psychological torture;

(ii) Emphasizing the importance of training prison officials to develop good communication skills between themselves and with detainees, as a measure to reduce the resort to prohibited physical coercion, and to reduce inter-prisoner violence;

(iii) Taking other appropriate measures to prevent acts of ill-treatment by members of the police, and establish a fully independent and impartial investigation system;

(d) Ensure in practice that the public prosecutor's actions are monitored to ensure that any persons who allege ill-treatment or torture or who require medical examination are permitted by the public prosecutor to receive such examinations at their request and not only at the order of an official;

(e) Take urgent and effective steps to establish a fully independent complaints mechanism, ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecutions, and punish, as appropriate, the alleged perpetrators;

(f) Ensure that officials in the army promptly investigate reports of brutality against conscripts that may amount to ill-treatment or torture, and investigate other reports of abuse fairly and impartially, and hold those responsible to account;

(g) Ensure that the competent authorities strictly observe article 3 of the Convention and do not expel, return or extradite a person to a State where he/she might be subjected to torture. The Committee urges the State party to intensify efforts to ensure that holding facilities for foreigners meet international standards...

(h) Continue efforts to provide an effective legal aid system by, *inter alia*, public financing of defence counsel offices, providing adequate remuneration, and involving the Bar Association in coordinating appointments;

...



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- Morocco, CAT, A/59/44 (2003) 58 at paras. 125-127.

125. The Committee takes note of the following positive new developments:

(a) The declaration by the State party delegation of the intention of the executive, up to the highest level, and of the legislature, to implement the Convention, which is directly applicable in Morocco, to adopt institutional, normative and educational measures, in consultation with local and international associations, and to develop technical cooperation in the area of human rights with the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Human Rights and non-governmental organizations (NGOs). This political will has also been reflected in the release of political prisoners, including a group of 56 who were released in November 2002, and in the compensation of victims;

...

(f) The payment of compensation, following the recommendations made by the Independent Arbitration Commission set up within CCDH on compensation for material damage and moral injury suffered by victims of disappearance or arbitrary detention and their next of kin;

(g) The assurance that the State party will act on the recommendations and concerns addressed to it by the Committee.

126. The Committee expresses concern about:

(a) The non-existence of information on the full implementation of article 2 of the Convention, notably in the cases provided for in paragraphs 2 and 3 relating to exceptional circumstances and an order from a superior officer or a public authority as grounds for excluding criminal responsibility;

(b) The considerable extension of the time limit for police custody, the period during which the risk of torture is greatest, both in criminal law and in anti-terrorist legislation, which has been effected subsequent to the consideration of the second periodic report;

(c) The non-existence, during the period of police custody, of guarantees of rapid and appropriate access by persons in custody to a lawyer and a doctor, and to a relative;

(d) The increase, according to some information, in the number of arrests for political reasons during the period under consideration, the increase in the number of detainees and prisoners in general, including political prisoners, and the increase in the number of allegations of torture and cruel, inhuman or degrading treatment or punishment, allegations implicating the National Surveillance Directorate (DST);

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- (e) The lack of information about measures taken by the judicial, administrative and other authorities to act on complaints and undertake inquiries, indictments, proceedings and trials in respect of perpetrators of acts of torture, notably in the case of acts of torture verified by the Independent Arbitration Commission for compensation for material damage and moral injury suffered by the victims of disappearance or arbitrary detention and their next of kin;
- (f) The application to acts of torture of the prescription period provided for by ordinary law, which would appear to deprive victims of their imprescriptible right to initiate proceedings;
- (g) The non-existence of a provision of criminal law prohibiting any statement obtained under torture from being invoked as evidence in any proceedings;
- (h) The number of fatalities in prisons;
- (i) Prison overcrowding, and the allegations of beatings and violence between prisoners.

127. The Committee recommends that the State party:

- (a) In the context of the ongoing reform of the Criminal Code, include a definition of torture which is fully consistent with the provisions of articles 1 and 4 of the Convention;
- (b) In the context of the ongoing reform of the Criminal Code, clearly prohibit any act of torture, even if perpetrated in exceptional circumstances or in response to an order received from a superior officer or public authority;
- (c) Limit the period of police custody to a strict minimum and guarantee the right of persons in police custody to rapid access to a lawyer, a doctor and a relative;
- (d) Include in the Code of Criminal Procedure provisions organizing the imprescriptible right of any victim of an act of torture to initiate proceedings against any torturer;
- (e) Take all necessary measures to eliminate impunity for public officials responsible for torture and cruel, inhuman or degrading treatment;
- (f) Ensure that all allegations of torture or cruel, inhuman or degrading treatment are immediately investigated impartially and thoroughly, especially allegations relating to cases and situations verified by the aforementioned Independent Arbitration Commission and allegations implicating the National Surveillance Directorate in acts of torture, and ensure that appropriate penalties are imposed on those responsible and that equitable compensation is granted to the victims;

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(g) Inform the Committee of the outcome of impartial inquiries into all deaths in police custody, detention or prison, in particular deaths alleged to be the result of torture;

(h) In the context of the ongoing reform of the Criminal Code, incorporate a provision prohibiting any statement obtained under torture from being invoked as evidence in any proceedings, in conformity with article 15 of the Convention;

...

- Yemen, CAT, A/59/44 (2003) 64 at paras. 144-146.

144. The Committee, while aware of the difficulties that the State party faces in its prolonged fight against terrorism, recalls that no exceptional circumstances whatsoever can be invoked as a justification for torture. It stresses in particular that the reactions of the State party to such threats must be compatible with article 2, paragraph 2, of the Convention and within the limits of Security Council resolution 1373 (2001).

145. The Committee expresses concern about the following:

(a) The lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention;

(b) The nature of some criminal sanctions, in particular flogging and amputation of limbs, which may be in breach of the Convention;

(c) Reports of the frequent practice of *incommunicado* detention by Political Security Department officials, including occurrences of mass arrests and detention for prolonged periods without judicial process;

(d) The failure in practice to enable detained persons to obtain access to a lawyer, a doctor of their choice or relatives from the outset of their detention;

(e) The apparent failure to investigate promptly, impartially and fully the numerous allegations of torture and breaches of article 16 of the Convention and to prosecute alleged offenders;

(f) Reported cases of deportation of foreigners without the opportunity for them to legally challenge those measures which, if found to be the case, may be in breach of the obligations imposed by article 3 of the Convention;

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(g) The failure of the State party to provide detailed information relating to modalities of compensation and rehabilitation of victims of ill-treatment by the State;

(h) The situation of women who have served their prison sentences but who remain in prison for prolonged periods;

...

146. The Committee recommends that the State party:

(a) Adopt a definition of torture which covers all elements of that contained in article 1 of the Convention, and amend domestic penal law accordingly;

(b) Take all appropriate measures to ensure that criminal sanctions are in full conformity with the Convention;

(c) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, at all stages of detention and that detainees held by the Political Security Department are given prompt access to judges;

(d) Take all appropriate measures to abolish *de facto incommunicado* detention;

(e) Take immediate steps to ensure that arrests and detentions are carried out under independent and impartial judicial supervision;

(f) Ensure that all counter-terrorism measures taken are in full conformity with the Convention;

(g) Ensure that the expulsion, refoulement or extradition of a person to another State is in compliance with article 3 of the Convention;

(h) Take measures to establish an effective, reliable and independent complaints system to undertake prompt and impartial investigations into allegations of ill-treatment or torture by police and other public officials, and punish the offenders;

(i) Strengthen efforts to reduce any occurrences of torture or other ill-treatment by police and other public officials, and collect data that monitors such acts;

(j) Ensure the right of torture victims to fair and adequate compensation from the State and set up programmes for the physical and psychological rehabilitation of victims;

(k) Continue and expand efforts to establish "half-way homes" for women in order to avoid

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their remaining in prison beyond the expiration of their sentence;

...

(n) Consult closely with the Office of the High Commissioner for Human Rights, the United Nations independent human rights mechanisms and country-based programmes to develop appropriate education and training programmes on, *inter alia*, the United Nations human rights treaty body reporting processes and programmes aimed at enforcing the prohibition of torture and ill-treatment.

- Bulgaria, CAT, A/59/44 (2004) 19 at paras. 32 and 33.

32. The Committee expresses concern about the following:

(a) The absence in domestic law of a comprehensive definition of torture as set out in article 1 of the Convention;

(b) Numerous allegations of ill-treatment of persons in custody, in particular during police interviews, which may amount to torture and which disproportionately affect the Roma;

(c) The lack of an independent system to investigate complaints, and that allegations of ill-treatment are not always investigated promptly and impartially, resulting in an apparent situation of impunity for those responsible;

(d) The reported lack of prompt and adequate access by persons in custody to legal and medical assistance and to family members, and that access to free legal aid is quite limited and ineffective in practice. Furthermore, the reported inconsistencies in providing the required medical records to detainees hinder their ability to lodge complaints and seek redress;

(e) Poor conditions in homes for persons with mental disabilities and the insufficient steps taken thus far by the authorities to address this situation, including the failure to amend the legislation relating to involuntary placement in such an institution for purposes of evaluation and the lack of judicial appeal and review procedures;

(f) The legislative and other measures to ensure full respect of the provisions of article 3 of the Convention continue to be insufficiently effective, and that the allegations regarding the expulsion of foreigners, especially by order of the National Security Service on national security grounds, is not subject to judicial review;

(g) The insufficient data relating to compensation and rehabilitation available to victims of

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torture or their dependants in accordance with article 14 of the Convention;

(h) The extremely poor material conditions prevailing in detention facilities, in particular in investigative detention facilities, some of which are still underground or lack basic facilities for outdoor activities, where persons can be held for up to two years, and the lack of independent inspections of such places;

(i) The imposition of a particularly strict regime, notably for the first five years, upon all prisoners serving life sentences.

33. The Committee recommends that the State party:

(a) Adopt a definition of torture that covers all the elements contained in article 1 of the Convention and incorporate into the Penal Code a definition of a crime of torture that clearly reflects this definition. Furthermore, the Committee invites the State party to consider the advisability of incorporating into law the provisions of Ministry of the Interior instruction No. I-167;

(b) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and pursue efforts to reduce incidents of ill-treatment by police and other public officials, and devise modalities for collecting disaggregated data and monitoring the occurrence of such acts in order to address the issue more effectively. The State party is encouraged to pursue its efforts to recruit persons of Roma origin into the police;

(c) Take measures to establish an effective, reliable and independent complaint system to initiate and undertake prompt and impartial investigations into all allegations of ill-treatment or torture and to punish those found responsible. The Committee requests that the State party provide it with statistical data regarding such reported cases and the results of the investigations, disaggregated by, *inter alia*, gender, ethnic group, geographical region and type and location of places of deprivation of liberty where they occurred;

(d) Ensure that, in law as well as in practice, all persons deprived of their liberty are duly registered at the place of custody and guaranteed, and informed of, the rights to have access to counsel, to contact next of kin and to a doctor. In this respect an independent free legal aid system for detainees should be established. Strict rules on the maintenance of medical records for all detained persons should be established and rigorously adhered to;

(e) Undertake all necessary measures to address the situation in homes and hospitals of persons with mental disabilities to ensure that the living conditions, therapy and rehabilitation provided are not in violation of the requirements of the Convention. The

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Committee also urges the State party to ensure that the placement of children in social care homes is regularly reviewed. It urges the State party to provide monitoring and reassessment of diagnoses by specialists, with appropriate appeal procedures;

(f) Ensure that no person is expelled, returned or extradited to a country where there are substantial grounds for believing that he/she would be in danger of being subjected to torture and that, in accordance with article 2, paragraph 2, of the Convention, exceptional circumstances are not invoked as a justification for so doing and to this end, consider measures to enable monitoring at airports, borders and other points of removal;

(g) Strengthen its efforts to avoid any act not in conformity with the Convention regarding admittance of asylum-seekers into the territory and strengthen cooperation between the State Agency for Refugees and the Ministry of the Interior;

(h) Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining redress, including an enforceable right to fair and adequate compensation;

(i) Take measures to improve the conditions in detention facilities, in particular the investigative detention facilities, with a view to closing the remaining five facilities that are underground, and ensure that all detention facilities provide at least minimal outdoor exercise for detainees;

(j) Ensure close monitoring of inter-prisoner and other violence, including sexual violence, in detention facilities and social care homes, with a view to preventing it...

(k) Review the regime of detainees serving life sentences, including those serving life sentence without possibility of parole.

- Chile, CAT, A/59/44 (2004) 28 at paras. 54-57.

54. The Committee notes the following positive developments:

(a) The introduction of the offence of torture in domestic criminal law;

(b) The comprehensive reform of the Code of Criminal Procedure, and in particular the changes aimed at improving the protection of detainees;

...

(d) The abolition of provision for arrest on suspicion;

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- (e) The reduction in the period of detention in police custody to a maximum of 24 hours;
- (f) Assurances by the representatives of the State party that the Convention is directly applicable by the courts;
- (g) The establishment of the National Commission on Political Imprisonment and Torture to identify persons who were deprived of freedom and tortured for political reasons during the military dictatorship, and the assurances by the representative of the State party that its tenure would be extended to permit it to complete its work;
- (h) Assurances by the representatives of the State party that mechanisms have been created to ensure that any testimony obtained under torture will not be admissible in court, and their recognition of the serious problem of coercing confessions from women who seek life-saving treatment in public hospitals after illegal abortions;
- (i) Confirmation that non-governmental organizations are allowed regularly to visit places of detention;
- (j) The declarations under articles 21 and 22 of the Convention, enabling other States parties (art. 21) and individuals (art. 22) to submit complaints concerning the State party to the Committee;
- (k) Notification by the representatives of the State party that the process of ratification of the Optional Protocol to the Convention against Torture has been initiated.

55. The constitutional arrangements made as part of the political agreement that facilitated the transition from military dictatorship to democracy jeopardize the full exercise of certain fundamental human rights, according to the State party's report. While being aware of the political dimensions of these arrangements and their shortcomings, and noting that several Governments have previously submitted constitutional amendments to the Congress, the Committee stresses that internal political constraints cannot serve as a justification for non-compliance by the State party with its obligations under the Convention.

56. The Committee expresses concern about the following:

- (a) Allegations of continued ill-treatment of persons, in some cases amounting to torture, by *carabineros* (uniformed police), *policía de investigaciones* (civil police forces) and the *gendarmería* (prison guards), and reports of failure to conduct thorough and independent investigations into such complaints;



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- (b) The fact that certain constitutional provisions jeopardizing the full exercise of fundamental human rights remain in force, including, in particular, the Amnesty Law, which prohibits prosecution of human rights violations committed from 11 September 1973 to 10 March 1978 and which entrenches the impunity of those responsible for torture, disappearances and other serious human rights violations during the military dictatorship and the lack of reparation for the victims of torture;
- (c) That the definition of torture in the Criminal Code does not comply fully with article 1 of the Convention, and that it does not fully incorporate the purposes of torture and the acquiescence of public officials;
- (d) The continued subordination of the *carabineros* and the civil police forces to the Ministry of Defence, one result of which is that the competence of the military jurisdiction remains excessively broad;
- (e) Reports that some officials accused of torture-related crimes during the dictatorship have been appointed to high office;
- (f) The absence of internal legal provisions that expressly prohibit extradition, return, or expulsion when there are grounds for believing the person may be subjected to torture in the requesting country, and the absence of internal provisions regulating the implementation of articles 5, 6, 7, and 8 of the Convention;
- (g) The limited mandate of the National Commission on Political Imprisonment and Torture aimed at identifying victims of torture during the military regime and the conditions for obtaining reparation. In particular, the Committee notes with concern:
- (i) The short time period in which alleged victims can register with the National Commission, resulting in fewer persons registering than anticipated;
  - (ii) The lack of clarity as to which acts the Commission defines as torture;
  - (iii) The reported rejection of claims not filed in person, notwithstanding, e.g., the disability of the person(s) involved;
  - (iv) The failure to permit persons to register who may have received reparation for other human rights violations (disappearance, exile, etc.);
  - (v) That “austere and symbolic” reparation is not the same as “adequate and fair” reparation as set forth in article 14 of the Convention;

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- (vi) That the Commission does not have the competence to investigate allegations of torture in order to identify those persons responsible, so that they may be prosecuted;
  - (h) Severe overcrowding and other inadequate conditions in places of detention and reports of failure to conduct systematic inspections of such places;
  - (i) The continued provision, in articles 334 and 335 of the Code of Military Justice, of the principle of due obedience, notwithstanding provisions affirming a subordinate's right to protest against orders that might involve committing a prohibited act;
  - (j) Reports that life-saving medical care for women suffering complications after illegal abortions is administered only on condition that they provide information on those performing such abortions. Such confessions are reportedly used subsequently in legal proceedings against the women and against third parties, in contravention of the provisions of the Convention;
  - (k) That the introduction of the new Code of Criminal Procedure in the Metropolitan Region has been delayed until late 2005;
  - (l) That few cases of disappearances have been clarified by the military, despite the Government's efforts to establish a dialogue;  
...
  - (n) The insufficient information on the application of the Convention to action by the armed forces.
57. The Committee recommends that the State party should:
- (a) Adopt a definition of torture in conformity with article 1 of the Convention, and ensure that it covers all forms of torture;
  - (b) Reform the Constitution to ensure the full protection of human rights, including the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment in conformity with the Convention, and to this end abolish the Amnesty Law;
  - (c) Transfer responsibility for the *carabineros* and the civil police forces from the Ministry of Defence to the Ministry of the Interior and ensure that the jurisdiction of military courts is limited to crimes of a military nature;
  - (d) Eliminate the principle of due obedience, which may permit a plea of superior orders,

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from the Code of Military Justice to bring it into conformity with article 2, paragraph 3, of the Convention;

(e) Adopt all the necessary 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, and the provision of fair and adequate compensation for the victims, in conformity with the Convention;

(f) Consider eliminating or extending the current 10-year statute of limitations for the crime of torture, taking into account its seriousness;

(g) Adopt specific legislation to prohibit extradition, return, or expulsion to countries where a person may be in danger of being subjected to torture;

(h) Clarify, through legislation, the status of the Convention in domestic law to ensure that the provisions of the Convention can be applied, or adopt specific legislation incorporating the provisions of the Convention;

(i) Develop training programmes on the provisions of the Convention for judges and prosecutors as well as other law enforcement officials, including programmes on the prohibition of torture and cruel, inhuman or degrading treatment, for military officials, police, and other law enforcement personnel and others who may be involved in the custody, interrogation or treatment of persons at risk of torture; ensure that training programmes for medical specialists specifically deal with the identification and documentation of torture;

(j) Improve conditions in places of deprivation of liberty to meet international standards and take urgent measures to address overcrowding in prisons and other places of detention; introduce a system for monitoring the conditions of detention, the treatment of inmates and prisoner-on-prisoner and sexual violence in prisons;

(k) Extend the term and mandate of the National Commission on Political Imprisonment and Torture to enable victims of all forms of torture, including victims of sexual violence, to file complaints. To this end:

(i) Initiate measures to better publicize the work of the Commission, utilizing all media, and clarifying the definition of torture by including a non-exhaustive list specifying various forms of torture, including sexual violence, on the forms victims must complete;

(ii) Ensure that victims will be afforded privacy when registering with the

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Commission, and that persons in rural areas or otherwise unable to file in person can register;

(iii) Include in the final report of the Commission data disaggregated by gender, age, type of torture, etc.;

(iv) Consider extending the Commission's mandate to permit investigations and, where warranted, the initiation of criminal proceedings against those allegedly responsible for the actions reported;

(l) Create a system to provide adequate and fair reparation to victims of torture, including rehabilitative measures and compensation;

(m) Eliminate the practice of extracting confessions for prosecution purposes from women seeking emergency medical care as a result of illegal abortion; investigate and review convictions where statements obtained by coercion in such cases have been admitted into evidence, and take remedial measures including nullifying convictions which are not in conformity with the Convention. In accordance with World Health Organization guidelines, the State party should ensure immediate and unconditional treatment of persons seeking emergency medical care;

(n) Ensure that the application of the new Code of Criminal Procedure is promptly extended to the Metropolitan Region so that it can be fully operational throughout the country;

(o) Introduce, as part of the reform of the criminal justice system, safeguards to protect persons experiencing possible retraumatization in connection with prosecution of cases such as child abuse, sexual abuse, etc.;

(p) Provide updated information to the Committee on the status of investigations into past crimes involving torture, including the cases known as the "Caravan of Death", "Operación Cóndor" and "Colonia Dignidad";

...

- Croatia, CAT, A/59/44 (2004) 38 at paras. 72, 74, 77 and 78.

72. The Committee notes with satisfaction the ongoing efforts by the State party to reform its legislation in order to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, namely:

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(a) The adoption of the Law on Asylum in June 2003, which is scheduled to enter into force in July 2004 and which sets out the procedure for applying for asylum in the State party;

(b) The entry into force in February 2004 of the new Law on Foreigners which includes a provision prohibiting the deportation of individuals who could face torture if returned to their own country;

(c) The entry into force in January 2001 of the Law on the Police Force, which regulates the use of coercive measures, including the use of firearms;

(d) The entry into force in 2001 of the Law on the Execution of Penalties of Imprisonment which regulates the treatment and the rights of inmates.

...

74. The Committee takes note with satisfaction of the assurances given by the State party's representative that the 1996 Amnesty Act has not been applied to acts of torture.

...

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:

(i) The reported failure of the State party to carry out prompt, impartial and full investigations, to prosecute the perpetrators and to provide fair and adequate compensation to the victims;

(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;

(iii) The reported harassment, intimidation and threats faced by witnesses and victims testifying in proceedings and the lack of adequate protection from the State party;

(b) The fact that, to date, there have been no prosecutions or convictions for alleged crimes pursuant to article 176 of the Penal Code, which criminalizes acts of torture and other cruel, inhuman or degrading treatment or punishment;

(c) The reported lack of prompt and adequate access by persons deprived of their liberty to legal and medical assistance and to contact with family members;

(d) In connection with asylum-seekers and illegal immigrants:

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- (i) The poor conditions of detention of those held in the Jezevo Reception Centre for Foreigners, including poor hygienic conditions and limited access to recreational activities;
- (ii) The alleged cases of violence against those held in the Jezevo Reception Centre for Foreigners and the lack of prompt and impartial investigations into this matter;
- (iii) The deprivation of their liberty for prolonged periods of time;
- (e) The alleged failure of the State party to address the issue of violence and bullying between children and young adults placed in social care institutions;
- (f) The alleged failure of the State party to prevent and fully and promptly investigate violent attacks by non-State actors against members of ethnic and other minorities;
- (g) The poor regime for remand prisoners, who spend up to 22 hours a day in their cells without meaningful activities.

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;
- (b) Ensure full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), *inter alia* by ensuring that all indicted persons in their territory are arrested and transferred to the custody of the Tribunal;
- (c) Enforce all relevant legislation providing for the protection of witnesses and other participants in proceedings and ensure that sufficient funding is allocated for effective and comprehensive witness protection programmes;
- (d) Make judges, prosecutors and lawyers fully aware of Croatia's international obligations in the field of human rights, particularly those enshrined in the Convention;
- (e) Take measures to ensure in practice the right of all persons deprived of their liberty to have prompt access to counsel and a doctor of their choice, as well as to contact family members;

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- (f) Adopt all necessary measures to improve the material conditions of the reception centres for asylum-seekers and immigrants and ensure the physical and psychological integrity of all individuals accommodated in these centres;
- (g) Refrain from detaining asylum-seekers and illegal immigrants for prolonged periods;
- (h) Discontinue the practice of refusing access to asylum procedures because the authorities are unable to verify the identity of asylum-seekers owing to a lack of documentation or interpreters;
- (i) Provide an information sheet in the appropriate languages to inform asylum-seekers of the asylum procedures immediately after they are apprehended or arrive in the territory of the State party;
- (j) Allow the Office of the United Nations High Commissioner for Refugees (UNHCR) full access to asylum-seekers, and *vice versa*. UNHCR should normally be given access to individual files so that it can monitor asylum procedures and ensure that the rights of refugees and asylum-seekers are respected;
- (k) Increase the protection of children and young adults placed in social care institutions, *inter alia* by ensuring that violent acts are reported and investigated, providing support and treatment for children and young adults with psychological problems, and ensuring that these institutions employ trained personnel, such as social workers, psychologists and pedagogues;
- (l) Ensure the protection of members of ethnic and other minorities, *inter alia* by undertaking all effective measures to prosecute and punish all violent acts against these individuals, establishing programmes to raise awareness, prevent and combat this form of violence, and including this issue in the training of law enforcement officials and other relevant professional groups;
- (m) Improve the regime of activities for remand prisoners in accordance with international standards;
- ...
- (o) Continue with its efforts to strengthen human rights education and training activities on the prohibition of torture and ill-treatment for law enforcement officials, 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;
- ...

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- Czech Republic, CAT, A/59/44 (2004) 42 at paras. 85-87.

85. The Committee welcomes the ongoing efforts by the State party to revise its legislation in order to safeguard human rights in general and, more specifically, those related to the implementation of the Convention against Torture. The Committee welcomes in particular:

(a) The amendments to the Residence of Aliens Act No. 222/2003 Coll., effective 1 January 2004 establishing an independent judicial second instance body to review asylum cases;

(b) The amendment to the Act on Serving Prison Terms (Act No. 52/2004 Coll.), and certain related acts, which define conditions in prison in accordance with the standards required and offer greater protection to detainees;

(c) The Law on Probation and Mediation and the creation of a Probation and Mediation Service (Act No. 257/2000 Coll.), resulting, *inter alia*, in the decrease in the number of prisoners;

(d) The Law on the Special Protection of Witnesses (Act. No. 137/2001 Coll.);

(e) Amendments to the Penal Code (No. 265/2001 Coll.) providing for the direction of investigation of criminal offences allegedly committed by members of the police to the State Prosecuting Attorney instead of the police investigator, as was previously the case;

...

(h) The publication of the reports of the European Committee for the Prevention of Torture and responses by the State party as well as assurances that measures will be taken to follow up on the recommendations.

86. The Committee expresses concern about the following:

(a) The persistent occurrence of acts of violence against the Roma and the alleged reluctance on the part of the police to provide adequate protection and to investigate such crimes, despite efforts made by the State party to counter such acts;

(b) The lack of explicit legal guarantees of the rights of all persons deprived of liberty to have access to a lawyer, and to notify their next of kin from the very outset of their custody;

(c) The fact that minors are not kept separately from adults in all situations of detention;

(d) The fact that remand prisoners and those serving life sentences cannot work and are left idle without adequate activities;



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- (e) The occurrence of inter-prisoner violence and the lack of statistical data that may provide a breakdown by relevant indicators to facilitate determination of the root causes and the design of strategies to prevent and reduce such occurrences;
- (f) Medical consultations may not always be confidential and the decision to resort to restraints is not always covered by the law or regularly reviewed;
- (g) The current system under which inmates are required to cover a portion of the expenses related to their imprisonment;
- (h) The findings of the investigations into the excessive use of force by the police following the demonstrations in Prague during the September 2000 International Monetary Fund/World Bank Meeting, according to which only one case qualified as a criminal offence;  
...
- (j) The amendments to the law on the right to asylum which amplified the grounds for rejecting asylum requests and allows for the detention of persons in the process of being removed to be held in aliens' detention centres for a period of up to 180 days; as well as the restrictive nature of the conditions in these centres which are comparable to those in prisons;
- (k) Allegations regarding some incidents of uninformed and involuntary sterilizations of Roma women, as well as the Government's inability to investigate due to insufficient identification of the individual complainants.

87. The Committee recommends that the State party:

- (a) Exert additional efforts to combat racial intolerance and xenophobia and ensure that the comprehensive anti-discrimination legislation being discussed include all relevant grounds covered by the Convention;
- (b) Take measures to establish an effective, reliable and independent complaint system to undertake prompt and impartial investigations into all allegations of ill-treatment or torture by the police or other public officials, including allegations of racially motivated violence by non-State actors, in particular any that have resulted in deaths, and to punish the offenders;
- (c) Strengthen existing efforts to reduce occurrences of ill-treatment by the police and other public officials, including those which are ethnically motivated, and, while ensuring protection of an individual's privacy, devise modalities of collecting data and monitoring the occurrence of such acts in order to address the issue more effectively;

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(d) Strengthen safeguards provided in the Code of Criminal Procedure against ill-treatment and torture, and ensure that, in law as well as in practice, all persons deprived of their liberty be guaranteed, and systematically informed of, their right to a lawyer and to notify their next of kin;

(e) Ensure that persons under 18 years of age are detained separately from adults in all circumstances;

(f) Consider modalities of creating additional activities for all detainees with a view to encouraging them to occupy themselves, thus reducing the amount of time spent in idleness;

(g) Monitor and document incidents of inter-prisoner violence with a view to revealing the root causes and designing appropriate prevention strategies...

(h) Ensure that medical examinations are confidential and consider possibilities of transferring the medical services from the Ministry of Justice to the Ministry of Health;

(i) Reconsider the arrangements whereby prisoners are required to cover a portion of their expenses, with a view to abolishing this requirement completely;

(j) Ensure that the classification of acts prohibited under the Convention is made by an impartial authority with a view to initiating appropriate proceedings...

(k) Review the independence and effectiveness of the investigations into complaints of excessive use of force in connection with the International Monetary Fund/World Bank Meeting demonstrations of September 2000, with a view to bringing those responsible to justice and providing compensation to the victims;

...

(m) Review the strict regime of detention for illegal immigrants with a view to its repeal and ensure that all children held in these detention centres are removed with their parents to family reception centres;

(n) Investigate claims of involuntary sterilizations, using medical and personnel records, and urge the complainants, to the extent possible, to assist in substantiating the allegations;

...

- Germany, CAT, A/59/44 (2004) 45 at paras. 90-92.

90. The Committee welcomes:

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...

(c) The State party's reaffirmation of its commitment to the absolute character of the ban on exposure to torture, including through *refoulement*. In this respect, the Committee takes note of the recent institution of criminal proceedings against a senior Frankfurt police officer on charges of threatened use of torture. In addition, it welcomes the State party's confirmation that the ban on *refoulement* contained in article 3 of the Convention is applicable to all cases, including where the asylum-seeker has been denied refugee status on security grounds;

...

(e) The significant improvements that have been made over the reporting period (i) to the Frankfurt airport refugee facilities; (ii) to the applicable refugee determination processes conducted there; and (iii) to the methods exercised in forcibly returning failed asylum-seekers by air;

(f) The State party's passage of legislation to implement the Rome Statute of the International Criminal Court, which comprehensively codifies crimes against international law, including torture in the context of genocide, war crimes or crimes against humanity;

(g) The consideration by the State party of issues of torture and other conduct contrary to the Convention that is committed by non-State actors, when relevant under the Convention, in asylum and removal proceedings, and the fact that according to federal jurisprudence individual claims of mistreatment may also be made where a person originates from a "safe" third country;

...

91. The Committee expresses its concern at:

(a) The length of time taken to resolve criminal proceedings arising from allegations of ill-treatment of persons in the custody of law enforcement authorities, including in particular serious cases where death has resulted, such as that of Amir Ageeb, who died in May 1999;

(b) Some allegations that criminal charges have been brought, for punitive or dissuasive purposes, by law enforcement authorities against persons who have brought charges of ill-treatment against law enforcement authorities;

(c) The fact that for numerous areas covered by the Convention, the State party was unable to supply statistics, or appropriately disaggregate those in its possession. During the current dialogue, this occurred with respect to, for example, public prosecutions, alleged cases of collusive allegations of ill-treatment, cases of counter-charges being brought by law enforcement authorities, and details as to offenders, victims and the factual elements of ill-treatment charges;

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(d) The fact that, owing to perceived constitutional difficulties arising from the division of powers between federal and Länder authorities, measures taken at the federal level to enhance compliance with the Convention are not applicable to relevant activities of the Länder. Thus, the comprehensive federal rules regarding forcible return by air, while applicable to returns carried out by the Federal Border Police (*Bundesgrenzschutz*), are not applicable to returns carried out by Länder authorities;

(e) The legal controls and training provided to private security companies utilized to provide security to certain detention facilities at Frankfurt-am-Main international airport.

92. The Committee recommends that:

(a) The State party take all appropriate measures to ensure that criminal complaints lodged against its law enforcement authorities are resolved expeditiously, in order to resolve such allegations promptly and avoid any possible inference of impunity, including in cases where counter-charges are alleged;

(b) The State party create a central point to assemble relevant nationwide statistical data and information on areas covered by the Convention, request such data and information from the Länder authorities or undertake such other measures as may be necessary to ensure that the State party's authorities, as well as the Committee, are fully apprised of these details when assessing the State party's compliance with its obligations under the Convention;

(c) The State party take such measures as are appropriately within its power with respect to the authorities of the Länder to ensure the adoption and general application of measures which have proven efficacious at the federal level in improving compliance with the Convention, such as the federal rules on forcible return by air;

(d) The State party comprehensively group together its criminal provisions relating to torture and other cruel, inhuman or degrading treatment or punishment;

...

(f) The State party clarify for the Committee (i) whether all complaint facilities and avenues of legal redress (including State assumption of responsibility for the acts of its agents) that are available against members of the law enforcement authorities are applicable to the employees of private security companies engaged by the State party; and (ii) what kind of training is provided to such employees on issues arising under the Convention;

(g) The State party offer, as a routine practice, medical examinations both before all forced removals by air and, in the event that they fail, thereafter;

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(h) The State party consider making more active use of the Convention's extradition mechanisms with respect to German nationals who are alleged to have engaged, or to be complicit, in acts of torture abroad or in which German nationals are alleged to be victims;  
...

- Monaco, CAT, A/59/44 (2004) 56 at paras. 116-118.

116. The Committee notes with satisfaction:

(a) The absence of any allegations that the State party has violated the Convention;

...

(c) The reform of the Criminal Code and the Code of Criminal Procedure to bring them into line with European human rights standards;

(d) The contributions made every year since 1994 to the United Nations Voluntary Fund for Victims of Torture.

117. The Committee expresses concern about:

(a) The lack of a definition of torture in criminal law that covers all the constituent elements contained in article 1 of the Convention;

(b) The lack of any provision expressly prohibiting the invocation of exceptional circumstances or orders from a superior officer or a public authority as a justification for torture;

(c) The weakness of the safeguards associated with the expulsion and return (*refoulement*) of foreigners, inasmuch as there appears to be no clause on *non-refoulement* in Monaco's domestic law that meets the requirements of article 3 of the Convention and appeal to the Supreme Court does not automatically have suspensive effect;

(d) The narrow scope of articles 228 and 278 of the Criminal Code, which do not fully meet the requirements of article 4 of the Convention, since they relate only to murder committed by means of acts of torture or accompanied by acts of cruelty and to torture committed in the course of unlawful arrest or abduction;

(e) The fact that persons in custody are not entitled to the assistance of counsel, there being no provision for such assistance until they first appear before the investigating magistrate, and can inform their next of kin that they have been detained only with the magistrate's

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authorization;

- (f) The lack of explicit provisions requiring a register of individuals held in police premises, even if such registers are actually kept;
- (g) The absence of any mechanism to monitor physical prison conditions and how prisoners are treated in French penitentiary establishments.

118. The Committee recommends that the State party:

- (a) Establish in its domestic criminal law a definition of torture that is fully consistent with article 1 of the Convention;
  - (b) Enact in its domestic law a prohibition on the invocation of exceptional circumstances or orders received from a superior officer or public authority as a justification of torture;
  - (c) Respect the principle laid down in article 3 of the Convention, including in cases involving the expulsion and return (*refoulement*) of foreigners, and establish that appeals against deportation orders which mention the risk of torture in the country of destination automatically have suspensive effect. The Committee, noting that individuals are expelled or returned only to France, reminds the State party that it must satisfy itself that no one will be returned to a third country where there might be a risk of torture;
  - (d) Guarantee the right of individuals in detention to have access to a lawyer of their choosing and inform their next of kin within the first few hours of being detained;
  - (e) Adopt regulations requiring the use of registers in police premises in conformity with the relevant international agreements, particularly the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
  - (f) Monitor physical prison conditions and how prisoners are treated in French penitentiary establishments;
  - (g) Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, whose prevention objectives are very important.
- New Zealand, CAT, A/59/44 (2004) 61 at paras. 134 and 135.

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134. The Committee expresses concern about:

- (a) The fact that the immigration legislation does not include the *non-refoulement* obligation provided for in article 3 of the Convention;
- (b) The significant decrease in the proportion of asylum-seekers who are immediately released without restriction into the community upon arrival and the detention of several asylum-seekers in remand prisons, who are not separated from other detainees;
- (c) The process of issuing a security-risk certificate under the Immigration Act, which could lead to a breach of article 3 of the Convention as the authorities may remove or deport a person deemed to constitute a threat to national security, without having to give detailed reasons or to disclose classified information to the person concerned; possibilities of effective appeal are limited; and the fact that the Minister of Immigration has to decide within three working days whether to remove or deport the person concerned;
- (d) Cases of prolonged non-voluntary segregation in detention (solitary confinement), the strict conditions of which may amount, in certain circumstances, to acts prohibited by article 16 of the Convention;
- (e) The low age of criminal responsibility, and the fact that juveniles are sometimes not separated from adult detainees and have been detained in police cells, owing to a shortage of Child, Youth and Family Residential Facilities;
- (f) The findings of the Ombudsman regarding investigations of alleged assaults by prison staff on inmates, in particular the reluctance to address such allegations promptly and the quality, impartiality and credibility of investigations.

135. The Committee recommends that the State party:

- (a) Incorporate in its immigration legislation the *non-refoulement* obligation contained in article 3 of the Convention against Torture and consider establishing a single refugee determination procedure in which there is first an examination of the grounds for recognizing refugee status as contained in the 1951 Convention relating to the Status of Refugees, to be followed by the examination of other possible grounds for the grant of complementary forms of protection, in particular under article 3 of the Convention against Torture;
- (b) Ensure at all times that the fight against terrorism does not lead to a breach of the Convention and impose undue hardship on asylum-seekers, and establish a time limit for the detention of and restrictions on asylum-seekers;

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

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

(e) Implement the recommendations made by the Committee on the Rights of the Child (CRC/C/15/Add.216, paras. 30 and 50);

(f) Report on the results of the development strategy aimed at ensuring that minors are not subjected to unreasonable searches;

(g) Carry out an inquiry into the events that led to the decision of the High Court in the *Taunoa et al.* case;

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

- Argentina, CAT, A/60/44 (2004) 12 at paras. 32-35.

32. The Committee...warmly welcomes the following positive developments:

(a) The ratification of the Optional Protocol to the Convention against Torture in November 2004;

(b) The ratification of the Rome Statute of the International Criminal Court in February 2001;

(c) The promulgation in January 2004 of the new Migration Act, No. 25.871, which lays down, *inter alia*, that a foreigner may be detained only by a judicial authority;

(d) The work accomplished by the National Commission for the Right to an Identity, which was entrusted with the task of locating children who disappeared under the military dictatorship.

33. The Committee takes note of the difficulties encountered by the State party, especially those of an economic and social nature. However, it points out that there are no exceptional



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circumstances of any kind which may be invoked to justify torture.

34. The Committee expresses its concern at the following:

(a) The many allegations of torture and ill-treatment committed in a widespread and habitual manner by the State's security forces and agencies, both in the provinces and in the federal capital;

(b) The lack of proportion between the high number of reports of torture and ill-treatment and the very small number of convictions for such offences, as well as the unjustifiable delays in the investigation of cases of torture, all of which contribute to the prevailing impunity in this area;

(c) The repeated practice of miscategorization of actions by judicial officials, who treat the crime of torture as a minor offence (such as unlawful coercion), which carries a lesser punishment, when in fact such actions should be categorized as torture;

(d) The uneven application of the Convention in the various provinces of the State party, and the lack of machinery for accommodating the requirements of the Convention to the federal structure of the country, despite the fact that the State party's Constitution grants those provisions the same status as the Constitution itself;

(e) The information supplied by the State party on compliance with the obligations imposed by the Convention still fails to reflect the situation in the country as a whole, as the Committee has stated when considering previous reports by the State party. The Committee also notes with concern that the national register of information from domestic courts on cases of torture and ill-treatment in the State party has still not been established;

(f) The reports of arrests and detention of children below the age of criminal responsibility, most of them "street children" and beggars, in police stations, where they are held together with adults, as well as on the alleged torture and ill-treatment suffered by such children, leading to death in some cases;

(g) Allegations of torture and ill-treatment of certain other vulnerable groups, such as members of the indigenous communities, sexual minorities and women;

(h) The overcrowding and poor physical conditions prevailing in the prisons, and particularly the lack of hygiene, adequate food and appropriate medical care, which may be tantamount to inhuman and degrading treatment;

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- (i) The high number of persons being held in pre-trial detention, which according to the State party is as high as 78 per cent in the Buenos Aires prison system;
- (j) The failure to apply the principle of separation between convicted prisoners and remand prisoners in detention centres, and between them and immigrants who have been served with expulsion orders;
- (k) Alleged reprisals, intimidation and threats received by persons reporting acts of torture and ill-treatment;
- (l) Humiliation and degrading treatment during body searches of persons visiting prisons;
- (m) The fact that medical staff in prisons are not independent but are members of the prison service.

35. The Committee recommends that the State party take all necessary steps to prevent acts of torture and ill-treatment in the territory of the State of Argentina, and in particular that it:

- (a) Take vigorous steps to eliminate the impunity of the alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try and, where appropriate, convict the perpetrators of torture and ill-treatment, impose appropriate sentences on them and properly compensate the victims;
- (b) Provide training for judicial officials in order to enhance the efficiency of investigations and bring judicial decisions into line with the relevant international standards;
- (c) Improve the quality of the State's security forces and agencies and enhance their training in respect of human rights, and specifically in respect of the requirements stemming from the Convention;
- (d) Guarantee that the obligations arising from the Convention will always be fulfilled in all provincial courts, with the aim of ensuring the uniform application of the Convention throughout the State party. The State party is reminded that the State's international responsibility is borne by the State at the national level even when violations have occurred at the provincial level;
- (e) Organize a national register of information from domestic courts on cases of torture and ill-treatment in the State party, a measure stated by the State party to be feasible;
- (f) Take specific steps to safeguard the physical integrity of the members of all vulnerable

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groups;

(g) As promised by the delegation of the State party in the case of the province of Buenos Aires, guarantee that the holding of minors in police units will be immediately banned, that minors currently in police units will be transferred to special centres, and that a nationwide ban will be imposed on the detention of minors by police personnel on “welfare grounds”;

(h) Take effective steps to improve physical conditions in prisons, reduce the existing overcrowding and properly guarantee the fundamental needs of all persons in custody;

(i) Consider amending its legislation and practice relating to pre-trial detention, so that such detention is imposed only as an exceptional measure, taking into account the recommendations on alternatives to pre-trial detention adopted by the Working Group on Arbitrary Detention in December 2003;

(j) Take the necessary steps to guarantee the principle of separation between convicted prisoners and remand prisoners, and between them and immigrants who have been served with expulsion orders in detention centres;

(k) Take effective steps to ensure that all persons reporting acts of torture or ill-treatment are protected from intimidation and from any unfavourable consequence of their action in making such a report;

(l) Take appropriate steps to guarantee full respect for the dignity and human rights of all persons during body searches, in full compliance with international standards;

(m) Take the necessary steps to guarantee the presence of independent, qualified medical personnel to carry out periodic examinations of persons in detention;

...

(o) Establish national prevention machinery with authority to make periodic visits to federal and provincial detention centres for the purpose of fully implementing the Optional Protocol to the Convention;

(p) Establish and promote effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and psychological and medical assistance to victims;

...

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- United Kingdom of Great Britain and Northern Ireland (Crown Dependencies and Overseas Territories), CAT, A/60/44 (2004) 16 at paras. 39 and 40.

39. The Committee expresses its concern at:

(a) Remaining inconsistencies between the requirements of the Convention and the provisions of the State party's domestic law which, even after the passage of the Human Rights Act, have left continuing gaps; notably:

(i) Article 15 of the Convention prohibits the use of evidence gained by torture wherever and by whomever obtained; notwithstanding the State party's assurance set out in paragraph 38, subparagraph (g), *supra*, the State party's law has been interpreted to exclude the use of evidence extracted by torture only where the State party's officials were complicit; and

(ii) Article 2 of the Convention provides that no exceptional circumstances whatsoever may be invoked as a justification for torture; the text of section 134 (4) of the Criminal Justice Act however provides for a defence of "lawful authority, justification or excuse" to a charge of official intentional infliction of severe pain or suffering, a defence which is not restricted by the Human Rights Act for conduct outside the State party, where the Human Rights Act does not apply; moreover, the text of section 134 (5) of the Criminal Justice Act provides for a defence for conduct that is permitted under foreign law, even if unlawful under the State party's law;

(b) The State party's limited acceptance of the applicability of the Convention to the actions of its forces abroad, in particular its explanation that "those parts of the Convention which are applicable only in respect of territory under the jurisdiction of a State party cannot be applicable in relation to actions of the United Kingdom in Afghanistan and Iraq"; the Committee observes that the Convention protections extend to all territories under the jurisdiction of a State party and considers that this principle includes all areas under the *de facto* effective control of the State party's authorities;

(c) The incomplete factual and legal grounds advanced to the Committee justifying the derogations from the State party's international human rights obligations and requiring the emergency powers set out in Part IV of the Anti-terrorism, Crime and Security Act 2001; similarly, with respect to Northern Ireland, the absence of precise information on the necessity for the continued emergency provisions for that jurisdiction contained in the Terrorism Act 2000;

(d) The State party's reported use of diplomatic assurances in the "*refoulement*" context in

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circumstances where its minimum standards for such assurances, including effective post-return monitoring arrangements and appropriate due process guarantees followed, are not wholly clear and thus cannot be assessed for compatibility with article 3 of the Convention;

(e) The State party's resort to potentially indefinite detention under the Anti-terrorism, Crime and Security Act 2001 of foreign nationals suspected of involvement in international terrorism and the strict regime applied in Belmarsh prison;

(f) The investigations carried out by the State party into a number of deaths by lethal force arising between the entry into force of the Convention in 1988 and the Human Rights Act in 2000 which have failed to fully meet its international obligations;

(g) Reports of unsatisfactory conditions in the State party's detention facilities including substantial numbers of deaths in custody, inter-prisoner violence, overcrowding and continued use of "slopping out" sanitation facilities, as well as reports of unacceptable conditions for female detainees in the Hydebank Wood prison, including a lack of gender-sensitive facilities, policies, guarding and medical aid, with male guards alleged to constitute 80 per cent of guarding staff and incidents of inappropriate threats and incidents affecting female detainees;

(h) Reports of incidents of bullying followed by self-harm and suicide in the armed forces, and the need for full public inquiry into these incidents and adequate preventive measures; and

(i) Allegations and complaints against immigration staff, including complaints of excessive use of force in the removal of denied asylum-seekers.

40. The Committee recommends that:

(a) The State party take appropriate measures in the light of the Committee's views to ensure, if necessary explicitly, that the defences that might be available to a charge brought under section 134 (1) of the Criminal Justice Act be consistent with the requirements of the Convention;

(b) The State party should review, in the light of its experience since its ratification of the Convention and the Committee's jurisprudence, its statute and common law to ensure full consistency with the obligations imposed by the Convention; for greater clarity and ease of access, the State party should group and publish the relevant legal provisions;

(c) The State party should reassess its extradition mechanism insofar as it provides for the

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Home Secretary to make determinations on issues such as medical fitness for trial which would more appropriately be dealt with by the courts;

(d) The State party should appropriately reflect in formal fashion, such as legislative incorporation or by undertaking to Parliament, the Government's intention as expressed by the delegation not to rely on or present in any proceeding evidence where there is knowledge or belief that it has been obtained by torture; the State party should also provide for a means whereby an individual can challenge the legality of any evidence in any proceeding plausibly suspected of having been obtained by torture;

(e) The State party should apply articles 2 and/or 3 of the Convention, as appropriate, to transfers of a detainee within a State party's custody to the custody whether *de facto* or *de jure* of any other State;

(f) The State party should make public the result of all investigations into alleged conduct by its forces in Iraq and Afghanistan, particularly those that reveal possible actions in breach of the Convention, and provide for independent review of the conclusions where appropriate;

(g) The State party should re-examine its review processes, with a view to strengthening independent periodic assessment of the ongoing justification for emergency provisions of both the Anti-terrorism, Crime and Security Act 2001 and the Terrorism Act 2000, in view of the length of time the relevant emergency provisions have been operating, the factual realities on the ground and the relevant criteria necessary to declare a state of emergency;

(h) The State party should review, as a matter of urgency, the alternatives available to indefinite detention under the Anti-terrorism, Crime and Security Act 2001;

(i) The State party should provide the Committee with details on how many cases of extradition or removal subject to receipt of diplomatic assurances or guarantees have occurred since 11 September 2001, what the State party's minimum contents are for such assurances or guarantees and what measures of subsequent monitoring it has undertaken in such cases;

(j) The State party should ensure that the conduct of its officials, including those attending interrogations at any overseas facility, is strictly in conformity with the requirements of the Convention and that any breaches of the Convention that it becomes aware of should be investigated promptly and impartially, and if necessary the State party should file criminal proceedings in an appropriate jurisdiction;

(k) The State party should take all practicable steps to review investigations of deaths by

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lethal force in Northern Ireland that have remained unsolved, in a manner, as expressed by representatives of the State party, “commanding the confidence of the wider community”;

(l) The State party should develop an urgent action plan, including appropriate resort to criminal sanctions, to address the subjects of concern raised by the Committee in paragraph 40, subparagraph (g) as well as take appropriate gender-sensitive measures;

(m) The State party should consider designating the Northern Ireland Human Rights Commission as one of the monitoring bodies under the Optional Protocol to the Convention;

(n) The State party should consider offering, as routine practice, medical examinations before all forced removals by air and, in the event that they fail, thereafter;

...

- Greece, CAT, A/60/44 (2004) 20 at paras. 46-48.

46. The Committee notes the following positive developments:

(a) The ongoing efforts by the State party to revise its legislation and adopt other necessary measures, so as to strengthen the respect for human rights in Greece and give effect to the Convention. In particular the Committee welcomes the following:

(i) The new Prison Code (Law 2776/99), which contains provisions intended to, *inter alia*, improve living conditions in prisons and prevent inhuman treatment of prisoners;

...

(iii) The new Law on Legal Aid (Law 3226/2004), which stipulates that lawyers must be appointed to draw up and submit complaints on behalf of torture victims and victims of trafficking, and that the prison prosecutor has the duty to offer legal counselling to detainees;

(iv) The new Law on Arms Possession and Use of Firearms (3169/2003), which regulates the possession and use of firearms by police personnel;

(v) The Law on Combating Trafficking in Human Beings (Law 3064/2002), criminalizing trafficking and punishing the perpetrators of such crimes with heavy sentences;

...

(vii) The circulars of the Chief of the Greek Police of July 2003 concerning the

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detention of undocumented migrants and that of November 2003 regarding the treatment of victims of trafficking;

(b) The establishment of a Department for Children's Rights in the Office of the Ombudsman (Law 3094/2003) with a mandate to, *inter alia*, undertake investigations and research on specific issues considered particularly important;

(c) The lifting of restrictive quotas (of 15 per cent) for the entry of women into the police force;

...

(e) The publication of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Greece and the response of the Government thereto (CPT/Inf(2002)31 and CPT/Inf(2002)32), which would contribute to a general debate among all interested parties;

...

47. The Committee notes that many of the concerns it expressed during the consideration of the third periodic report (A/56/44, para. 87) have not been adequately addressed, and will be reiterated in the present concluding observations. Consequently, the Committee expresses its concern at:

...

(b) Procedures related to the expulsion of foreigners which in some instances may be in breach of the Convention. It is also concerned at the low percentage (0.06 per cent) of persons who were granted refugee status in 2003. The Committee acknowledges that owing to its geographic location Greece has become an important passageway into Europe for many immigrants and asylum-seekers, the number of which has increased significantly in the past decade. The importance of providing an adequate response is therefore all the more pressing;

(c) Training provided to public officials which may be inadequate to provide an appropriate response to the numerous challenges with which they are faced, including undocumented migrants and asylum-seekers and victims of trafficking, many of whom are women and children;

(d) The slow progress in adopting a code of ethics and other measures governing the conduct of police interrogations to supplement the provisions of the Criminal Procedure Code, with a view to preventing cases of torture and ill-treatment, in accordance with article 11 of the Convention;

(e) The lack of an effective independent system to investigate complaints and reports that allegations of torture and ill-treatment are not investigated promptly and impartially;



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(f) The alleged reluctance of prosecutors to institute criminal proceedings under article 137A of the Criminal Code. Furthermore, the Committee is concerned at the deficiencies in according protection from ill-treatment or intimidation to victims to which they may be exposed as a consequence of filing a complaint or giving evidence;

(g) The insufficient information available relating to redress and fair and adequate compensation, including rehabilitation available to victims of torture or their dependants, in accordance with article 14 of the Convention;

(h) Continuing allegations of excessive use of force and firearms, including cases of killings and reports of sexual abuse, by the police and, in particular, border guards. Many of the victims are reportedly Albanian citizens or members of other socially disadvantaged groups, and the Committee regrets the fact that disaggregated statistical data in this respect are not available from the State party;

(i) The continued overcrowding and poor conditions prevailing in prisons and other detention facilities, as well as the fact that it is difficult for independent bodies with a mandate to visit places of detention to obtain access;

(j) Ill-treatment of Roma by public officials in situations of forced eviction or relocation. The fact that these may be carried out pursuant to judicial orders cannot serve as a justification for ill-treatment, numerous allegations of which have been reported by national and international bodies alike;

(k) The reported prevalence of violence against women and girls, including domestic violence, and the reluctance on the part of the authorities to, *inter alia*, adopt legislative measures to counter this phenomenon;

(l) The inadequate measures taken to protect children picked up by the Security Police and taken into State care during the period 1998-2003. In particular, the Committee notes that of the approximately 600 children taken to the Aghia Varvara children's institution, 500 reportedly went missing and that these cases were not promptly investigated by a judicial authority;

(m) The absence of appropriate efforts to prevent and prohibit the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment, in particular in the light of allegations of the use of electroshocks.

48. The Committee recommends that the State party:

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- (a) Strengthen existing efforts to reduce occurrences of ill-treatment, including that which is racially motivated, by police and other public officials. While ensuring protection of individual privacy, the State party should devise modalities for collecting data and monitoring the occurrence of such acts in order to address the issue more effectively. The Committee recommends that the State party continue to take measures to prevent incidents of xenophobic and discriminatory behaviour;
- (b) Take all necessary steps to ensure effective implementation in practice of adopted legislation;
- (c) Ensure that the competent authorities strictly observe article 3 of the Convention and, in doing so, that they take account of general comment No. 1 (1996) of the Committee, in which the Committee notes that it “is of the view that the phrase ‘another State’ in article 3 refers to the State to which the individual concerned is being expelled, returned or extradited, as well as to any State to which the complainant may subsequently be expelled, returned or extradited” (para. 2);
- (d) Ensure that all personnel involved in the custody, detention, interrogation and treatment of detainees are trained with regard to the prohibition of torture and ill-treatment. Training should include developing skills needed to recognize the *sequelae* of torture and sensitization with respect to contact with particularly vulnerable persons in situations of risk;
- (e) Expedite the process of adopting a code of ethics and continue to consider modalities for amending interrogation rules and procedures, such as introducing audio or videotaping, with a view to preventing torture and ill-treatment;
- (f) Take necessary measures to establish an effective, reliable and independent complaints system to undertake prompt and impartial investigations, including immediate forensic medical investigation, into allegations of ill-treatment or torture by police and other public officials, and to punish the offenders. The Committee stresses that while the State party recognizes the independence of the judiciary, it has a responsibility to ensure its effective functioning;
- (g) Ensure that all persons reporting acts of torture or ill-treatment are accorded adequate protection, and that the allegations are promptly investigated. Disciplinary measures, including suspension, should not be delayed pending outcome of criminal proceedings;
- (h) Inform the Committee about the possibilities of providing redress and compensation to victims of torture and their dependants;

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- (i) Ensure strict application of the new legislation on the use and possession of firearms, in particular by border guards;
  - (j) While continuing its long-term efforts to address overcrowding and poor conditions in prisons and other places of detention, including by building new prisons, consider additional alternative means of reducing the prison population as urgent measures to address the situation in places of detention;
  - (k) Ensure that all actions of public officials, in particular where the actions affect the Roma (such as evictions and relocations) or other marginalized groups, are conducted in a non-discriminatory fashion and that all officials are reminded that racist or discriminatory attitudes will not be permitted or tolerated;
  - (l) Adopt legislation and other measures to combat violence against women, within the framework of plans to take measures to prevent such violence, including domestic violence, and to investigate all allegations of ill-treatment and abuse;
  - (m) Review the modalities for protecting street children, in particular to ensure that those measures protect their rights. All decisions affecting children should, to the extent possible, be taken with due consideration for their views and concerns, with a view to finding an optimal, workable solution. The Committee urges the State party to take measures to prevent the recurrence of cases such as the Aghia Varvara children's institution. It should also ensure that a judicial investigation is carried out...
  - (n) Adopt measures aiming at the prevention and prohibition of the production and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment.
- Canada, CAT, A/60/44 (2005) 25 at paras. 56-58.
    - 56. The Committee notes:
      - (a) The definition of torture in the Canadian Criminal Code that is in accordance with the definition contained in article 1 of the Convention and the exclusion in the Criminal Code of the defences of superior orders or exceptional circumstances, including in armed conflict, as well as the inadmissibility of evidence obtained by torture;
      - (b) The direct application of the criminal norms cited in subparagraph (a) above to the State party's military personnel wherever they are located, by means of the National Defence Act;

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- (c) The general inclusion in the Immigration and Refugee Protection Act 2002 of torture within the meaning of article 1 of the Convention as an independent ground qualifying a person as in need of protection (sect. 97, subsect. 1 of the Act) and as a basis for *non-refoulement* (sect. 115, subsect. 1), where there are substantial grounds for believing that the threat of torture exists;
- (d) The careful constitutional scrutiny of the powers conferred by the Anti-Terrorism Act 2001;
- (e) The recognition of the Supreme Court of Canada that enhanced procedural guarantees have to be made available, even in national security cases, and the State party's subsequent decision to extend enhanced procedural protections to all cases of persons challenging on grounds of risk of torture, Ministerial expulsion decisions;
- (f) The changes to Corrections policy and practice implemented to give effect to the recommendations of the Arbour Report on the treatment of female offenders in the federal prison system;
- (g) The requirement that body cavity searches be carried out by medical rather than correctional staff in a non-emergency situation and after written consent and access to legal advice have been provided;
- (h) The efforts made by the State party, in response to the issue of overrepresentation of indigenous offenders in the correctional system previously identified by the Committee, to develop innovative and culturally sensitive alternative criminal justice mechanisms, such as the use of healing lodges.

57. The Committee expresses its concern at:

- (a) The failure of the Supreme Court of Canada, in *Suresh v. Minister of Citizenship and Immigration*, to recognize at the level of domestic law the absolute nature of the protection of article 3 of the Convention, which is not subject to any exception whatsoever;
- (b) The alleged roles of the State party's authorities in the expulsion of Canadian national Mr. Maher Arar, expelled from the United States of America to the Syrian Arab Republic where torture was reported to be practised;
- (c) The blanket exclusion by the Immigration and Refugee Protection Act 2002 (sect. 97) of the status of refugee or person in need of protection for persons falling within the security exceptions set out in the Convention relating to the Status of Refugees and its Protocol; as

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a result, such persons' substantive claims are not considered by the Refugee Protection Division or reviewed by the Refugee Appeal Division;

(d) The explicit exclusion of certain categories of persons posing security or criminal risks from the protection against *refoulement* provided by the Immigration and Refugee Protection Act 2002 (sect. 115, subsect. 2);

(e) The State party's apparent willingness, in the light of the low number of prosecutions for terrorism and torture offences, to resort in the first instance to immigration processes to remove or expel individuals from its territory, thus implicating issues of article 3 of the Convention more readily, rather than subject him or her to the criminal process;

(f) The State party's reluctance to comply with all requests for interim measures of protection, in the context of individual complaints presented under article 22 of the Convention;

(g) The absence of effective measures to provide civil compensation to victims of torture in all cases;

(h) The still substantial number of "major violent incidents", defined by the State party as involving serious bodily harm and/or hostage-taking, in the State party's federal corrections facilities; and

(i) Continued allegations of inappropriate use of chemical, irritant, incapacitating and mechanical weapons by law enforcement authorities in the context of crowd control.

58. The Committee recommends that:

(a) The State party unconditionally undertake to respect the absolute nature of article 3 in all circumstances and fully to incorporate the provision of article 3 into the State party's domestic law;

(b) The State party remove the exclusions in the Immigration and Refugee Protection Act 2002 described in paragraph 57, subparagraphs (c) and (d) above, thereby extending to currently excluded persons entitlement to the status of protected person, and protection against *refoulement* on account of a risk of torture;

(c) The State party should provide for judicial review of the merits, rather than merely of the reasonableness, of decisions to expel an individual where there are substantial grounds for believing that the person faces a risk of torture;

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(d) The State party should insist on unrestricted consular access to its nationals who are in detention abroad, with facility for unmonitored meetings and, if required, of appropriate medical expertise;

(e) Given the absolute nature of the prohibition against *refoulement* contained in article 3 of the Convention, the State party should provide the Committee with details on how many cases of extradition or removal subject to receipt of “diplomatic assurances” or guarantees have occurred since 11 September 2001, what the State party’s minimum requirements are for such assurances or guarantees, what measures of subsequent monitoring it has undertaken in such cases and the legal enforceability of the assurances or guarantees given;

(f) The State party should review its position under article 14 of the Convention to ensure the provision of compensation through its civil jurisdiction to all victims of torture;

(g) The State party should take steps to ensure that the frequency of “major violent incidents” in its federal corrective facilities decreases progressively;

(h) The State party should conduct a public and independent study and a policy review of the crowd control methods, at federal and provincial levels, described in paragraph 57, subparagraph (i) above;

(i) The State party should fully clarify, if necessary through the adoption of legislation, the competence of the Commission for Public Complaints Against the RCMP (Royal Canadian Mounted Police) to investigate and report on all activities of the Royal Canadian Mounted Police falling within its complaint mandate;...

- Switzerland, CAT, A/60/44 (2005) 28 at paras. 63-65.

63. The Committee notes the following positive aspects:

(a) The ban, proposed by the draft federal law regulating the use of force by police during deportations and during the transport of detainees ordered by a federal authority, on all restraint methods which restrict breathing as well as on the use of irritant or incapacitating sprays;

(b) The elaboration of “guidelines relating to forcible deportations by air” (*directives relatives aux rapatriements sous contrainte par voie aérienne*), which include a provision that medication can be forcibly administered exclusively for medical reasons. It also notes that the Swiss Academy for Medical Sciences (*Académie suisse pour les sciences médicales*)

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was consulted in the process of their elaboration;

(c) The new draft federal code of criminal procedure on the rights of persons detained in police custody that prohibits *incommunicado* detention (*mise au secret*);

(d) The measures contained in the revised law on asylum as well as those taken by the Federal Office for Migration to address cases of gender-based persecution;

(e) The publication of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its third and fourth visits to Switzerland and the response of the Government thereto, as well as the work being carried out by the State party's authorities to implement recommendations contained therein, such as those concerning removals by air of foreign nationals and integration into the general police training programme of information concerning the risk of positional asphyxia during these deportations;

...

64. The Committee expresses concern regarding the following:

(a) Although torture is prohibited by the Federal Constitution, no specific definition of torture exists in criminal law covering all the constituent elements of article 1 of the Convention;

(b) The draft federal law regulating the use of force by police during deportations and during the transport of detainees ordered by a federal authority:

(i) Authorizes the use of electro-shock instruments, including taser devices, which can sometimes be used as instruments of torture;

(ii) Does not make any provision for independent monitors to be present during the deportation;

(c) The Federal Act on Administrative Procedure does not explicitly include the findings of the Committee in respect of an individual complaint concerning a violation of article 3 of the Convention as constituting, in itself, grounds for a review of a case. The Committee notes, however, that the finding will provide the basis for reappraisal when new facts or evidence are adduced during the proceedings;

(d) In order for a person to invoke article 3 of the Convention, the Committee notes that the standards of proof required by the State party exceed the standards required by the Convention. The Committee wishes to draw the attention of the State party to its general

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comment No. 1 (1996) stating that the risk of torture “must be assessed on grounds that go beyond mere theory or suspicion. However, the risk does not have to meet the test of being highly probable (para. 6)”;

...

(f) In spite of the increase in number of complaints filed against the police, often by persons of foreign origin, for ill-treatment, only a minority of these complaints result in prosecutions or indictments, and even fewer cases result in compensation for the victims or their families;

(g) All but one canton have failed to establish machinery to receive complaints against members of the police regarding allegations of torture or ill-treatment during arrest, questioning and police custody, in spite of a previous recommendation of the Committee in this regard;

(h) Changes have been introduced by the revised law on asylum which restrict or aggravate asylum-seekers’ access to legal counsel and the length and conditions of detention in “preparatory” or pre-deportation detention. The Committee is also concerned that in cases of non-entry decisions (*décision de non-entrée en matière*) the social benefits of asylum-seekers are being curtailed significantly;

(i) Asylum-seekers retained at airports are not consistently being informed of their right to walk and exercise regularly in the fresh air as well as to request medical assistance;

(j) The “guidelines relating to forcible deportations by air” do not contain an explicit ban on the wearing of masks or hoods by officers involved in the deportations.

65. The Committee recommends that the State party:

(a) Include an explicit definition of torture in the Criminal Code, incorporating all elements contained in article 1 of the Convention;

(b) Undertake efforts to encourage the successful outcome of the ongoing consultations on the draft federal law regulating the use of force by police during deportations and during the transport of detainees ordered by a federal authority regarding the ban on the use of electro-shock instruments. The State party should also ensure that independent human rights observers and/or doctors are present during all forced removals by air. It should also offer, as a routine practice, medical examinations both before forced removals by air and, in the case of abortive attempts, thereafter;

(c) Take measures to ensure that a finding of this Committee of a violation of article 3 be considered as sufficient grounds to review a case;



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(d) Ensure compliance with the requirements of article 3, including the proper test of proof, or the risk of torture, when determining whether to expel, return or extradite a person to another State;

...

(f) Ensure that all complaints for acts of ill-treatment are properly and effectively investigated and that the alleged perpetrators are prosecuted and if found guilty sanctioned accordingly. Victims and their families should be informed of their right to pursue compensation and procedures should be made more transparent. In this regard, the State party should provide written information to the Committee on the steps taken to compensate the families of the two victims of the two recent cases of death caused during forcible deportation;

(g) Encourage all cantons to establish independent mechanisms entrusted to receive complaints against members of the police regarding cases of torture or ill-treatment;

(h) Ensure that asylum-seekers are granted full respect of their right to a fair hearing, to an effective remedy and to social and economic rights during all procedures established by the revised law on asylum;

(i) Take measures to effectively inform all asylum-seekers retained at airports of all their rights, and in particular the right to regularly access fresh air and access to a doctor;

(j) Inform the Committee whether there have been complaints in the State party against the use of “diplomatic assurances” as a way to circumvent the absolute prohibition of *non-refoulement* established in article 3 of the Convention;

...

- Finland, CAT, A/60/44 (2005) 32 at paras. 71-73.

71. Amongst the many positive developments, the Committee notes in particular:

(a) The inclusion of a prohibition of torture and other treatment violating human dignity in section 7 of the new Constitution of Finland;

(b) Oral assurances by the representatives of the State party that the Government would consider the issue of the inclusion of a definition of torture in accordance with article 1 of the Convention in the Penal Code bearing in mind the concerns of the Committee;

(c) The measures taken by the State party to implement the Committee’s previous

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recommendations concerning:

- (i) Judicial supervision of the use of isolation in pre-trial detention;
  - (ii) The prohibition of organizations that promote and incite racial discrimination;  
and
  - (iii) The prohibition of the dissemination of ideas based on racial superiority or hatred;
- (d) The Act on the Integration of Immigrants and Reception of Asylum-Seekers 2001, which seeks to enhance the integration, equality and freedom of choice of immigrants, and the amendment of the Act in 2002 to accommodate the needs of vulnerable people, including minors and victims of torture, rape, or other physical or sexual violence;
- (e) The overall reform of the system for enforcement of sentences and detention, including changes to the system of parole;
- (f) The amendment of the Mental Health Act, taking into account human rights conventions binding on Finland, in order to strengthen the rights of the patient and staff;
- (g) The reassurance that strict provisions of law are in place to govern the use of force, including the use of sedatives and other medication, in the execution of deportation orders;
- (h) The creation of a new Office of Minority Ombudsman in 2001 to replace the Ombudsman for Aliens, with wider powers under the Minority Ombudsman Act and Aliens Act, including the ability to act for asylum-seekers and deportees;
- (i) The fact that there has been no reported case of torture in Finland during the reporting period;
- (j) The publication of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Finland (CPT/Inf (2003) 38 and CPT/Inf (2004) 20), and the Government replies thereto, as well as the work being carried out by the State party to implement the recommendations made by the European Committee;
- ...
72. The Committee expresses concern that:
- (a) The Committee's previous recommendations notwithstanding no specific definition of

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torture exists in criminal law covering all the constituent elements of article 1 of the Convention, although torture is prohibited by the new Constitution.

(b) The “accelerated procedure” under the Aliens Act allows an extremely limited time for applicants for asylum to have their cases considered thoroughly and to exhaust all lines of appeal if their application is rejected;

(c) Despite the safeguards in place, the Parliamentary Ombudsman reported on one recent case of an asylum-seeker whose application had been rejected and who was subsequently allegedly subjected to torture in his country of origin;

(d) Despite the programme of prison renovation currently under way, the practice of “slopping out”, which continues in some prisons, will not be definitively halted until 2010.

73. The Committee recommends that the State party:

(a) Enact specific legislation criminalizing torture in all its forms, as defined in article 1 of the Convention;

(b) Review the application of the “accelerated procedure” for consideration of asylum requests to ensure that applicants have sufficient time to use all available appeal procedures before irreversible action is taken by the authorities;

(c) Strengthen the legal safeguards for asylum-seekers to ensure that all asylum procedures conform to article 3 of the Convention and other international obligations in this field;

(d) Complete the process of implementing the suggestions made by the working group established to look at the situation of Roma in Finnish prisons and all other necessary measures to improve the situation and welfare of Roma prisoners;

(e) Consider means of accelerating the prison renovation programme and, in the interests of improved hygienic conditions, explore additional alternative interim solutions to the practice of “slopping out”;

...

- Albania, CAT, A/60/44 (2005) 34 at paras. 81-84.

81. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Albania. In particular, the Committee welcomes the

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following:

(a) The adoption of a democratic Constitution in 1998 that enhances protection of human rights, including the prohibition of torture, establishes a maximum 48-hour limit on detention before which a person must be brought before a judge, and the direct applicability of ratified international treaties and their superiority over domestic laws;

...

(c) The ratification of:

(i) The European Convention on Extradition and its Additional Protocol in 1998 and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocol No. 1 and Protocol No. 2 in 1996;

(ii) The Rome Statute of the International Criminal Court in 2002 as well as of most of the United Nations conventions and protocols for the protection of human rights;

(iii) The Optional Protocol to the Convention against Torture in 2003;

(d) Specific measures for law enforcement personnel:

(i) The adoption of the “Code of Police Ethics” in 1998;

(ii) The organization of training for the police through a project of education in the field of prevention of torture by the Ministry of Public Order in cooperation with NGOs.

82. ...[T]he Committee would like to commend:

(a) The suspension since 1992 of the death penalty;

(b) The separation of juveniles from adults in all detention facilities;

(c) The publication of the reports of the four first visits of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to Albania (CPT/Inf (2003)11) and of the response of the Government thereto (CPT/Inf (2003)12) as well as the assurance of the Government that it will soon authorize the publication of the report of the 2003 visit;

...

83. The Committee expresses concern:

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- (a) That the definition of torture in the Criminal Code does not cover all the elements contained in article 1 of the Convention, especially regarding persons acting in an official capacity;
- (b) That the qualification of acts of torture by law enforcement personnel merely as “arbitrary acts” results in those acts being treated as less serious criminal offences;
- (c) That a climate of *de facto* impunity prevails for law enforcement personnel who commit acts of torture or ill-treatment, in view of:
  - (i) The numerous allegations of torture and ill-treatment by law enforcement personnel, especially at the moment of arrest and during interrogation;
  - (ii) The limited number of complaints regarding torture and ill-treatment, in particular to the Peoples’ Advocate;
  - (iii) The lack of prompt and impartial investigation of allegations of torture and ill-treatment committed by law enforcement personnel; and
  - (iv) The absence of convictions in cases of torture under article 86 of the Criminal Code, and the limited number of convictions of torture with serious consequences under article 87 of the Criminal Code, all of which may indicate that there is a lack of awareness on the part of victims of their rights and that there is a lack of confidence in the police and judicial authorities;
- (d) About the difficulties encountered by victims of torture and ill-treatment in filing a formal complaint with public authorities, obtaining medical evidence in support of their allegations and presenting that evidence;
- (e) About allegations of lack of independence of the judiciary;
- (f) That there is no universal jurisdiction of the Albanian courts in cases involving torture;
- (g) That there is no clear legal provision prohibiting the use as evidence of any statement obtained under torture as well as no clear legal provision stating that an order from a superior may not be invoked as justification of torture;
- (h) At the failure to ensure fair and adequate compensation, including rehabilitation, for all victims of torture, including ex-political convicted and persecuted persons;

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- (i) At the lack of implementation of the fundamental legal safeguards for persons detained by the police, including guaranteeing the right to inform a relative, access to a lawyer and a doctor of their own choice, the provision of information about their rights and, for juveniles, the presence of their legal guardians during interrogation;
- (j) At the poor conditions of detention and long pre-trial detention periods of up to three years;
- (k) At the existence of an additional 10-hour administrative detention period for interrogation before the maximum 48-hour period within which a detainee must be brought before a judge begins;
- (l) About the lack of regular and unannounced visits to police stations by the Office of the Ombudsman;
- (m) About the lack of systematic medical examination of detainees within 24 hours of their admission to prison, the poor medical care in detention facilities, and the lack of training for medical personnel and prison medical personnel, not under the authority of the Ministry of Public Health;
- (n) About the legal possibility of *refoulement* of persons without any legal procedures in cases affecting public order or national security;
- (o) At the reported prevalence of violence against women and girls, including sexual and domestic violence, and the reluctance on the part of the authorities to, *inter alia*, adopt legislative and other measures to counter this phenomenon.

84. The Committee recommends that the State party:

- (a) Amend the Criminal Code in order to adopt a definition of torture that covers all the elements contained in article 1 of the Convention;
- (b) Ensure strict application of the provisions against torture and ill-treatment, criminalizing acts of torture and prosecuting and punishing perpetrators in a manner proportionate to the seriousness of the crimes committed;
- (c) Investigate all allegations of ill-treatment and torture by law enforcement personnel, carrying out prompt and impartial investigations to bring the perpetrators to justice in order to eliminate the *de facto* impunity for law enforcement personnel who commit acts of torture and ill-treatment;

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- (d) Improve mechanisms to facilitate the submission of complaints by victims of ill-treatment and torture to public authorities, including obtaining medical evidence in support of their allegations;
- (e) Take all appropriate measures to strengthen the independence of the judiciary and to provide adequate training on the prohibition of torture to judges and prosecutors;
- (f) Amend domestic legislation to ensure that acts of torture are considered universal crimes;
- (g) Adopt clear legal provisions prohibiting the use as evidence of any statement obtained under torture and establishing that orders from a superior may not be invoked as a justification of torture;
- (h) Implement the established legal mechanisms enabling victims of torture to obtain redress and fair and adequate compensation;
- (i) Implement the fundamental legal safeguards for persons detained by the police, guaranteeing their rights to inform a relative, to have access to a lawyer and a doctor of their own choice and to be provided with information about their rights and, for juveniles, to have their legal guardians present during interrogation;
- (j) Improve conditions in places of detention, ensuring that they conform to international minimum standards, adopt necessary measures to reduce the pre-trial detention period and continue to address overcrowding in places of detention;
- (k) Take the necessary measures to abolish the 10-hour administrative detention period for interrogation prior to the 48-hour period within which a suspect must be brought before a judge;
- (l) Allow regular and unannounced visits to police stations by the Office of the Ombudsman, as well as by other independent bodies;
- (m) Provide systematic medical examination of detainees within 24 hours of their admission to prison, improve medical care in detention facilities, establish training for medical personnel and transfer all prison medical personnel to the authority of the Ministry of Public Health;
- (n) Amend its legislation in order to prohibit the *refoulement* of persons without a legal procedure and to provide all required guarantees;

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(o) Adopt measures to combat sexual violence and violence against women, including domestic violence, and promptly and impartially investigate all allegations of torture or ill-treatment with a view to prosecuting those responsible;

(p) Transfer the responsibility for all pre-trial detainees to the authority of the Ministry of Justice;

(q) Take all necessary measures to ensure the effective implementation of the provisions of the Convention and of the adopted legislation, disseminate the relevant legislation to detainees and law enforcement personnel and provide adequate training to the latter;

...

- Uganda, CAT, A/60/44 (2005) 39 at paras. 90-95, 97 and 98.

90. The Committee notes with satisfaction the following positive developments:

(a) The establishment in 1996 of the Uganda Human Rights Commission under articles 51 to 59 of the Constitution and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), which is endowed with powers to address human rights violations, and the human rights desks in the army, police stations and prisons;

(b) The abolition of corporal punishment following Criminal Appeal No. 16 of 1999 (Supreme Court) *Kyamanywa v. Uganda*;

(c) The permission granted to many NGOs to operate freely in the country;

(d) The generous approach taken by the Government of Uganda in hosting more than 200,000 refugees and in fully respecting the principle of *non-refoulement*;

(e) The ratification by the State party of most major international human rights conventions;

...

91. The Committee acknowledges the difficult situation of internal armed conflict in northern Uganda. However, it points out that no exceptional circumstances whatsoever may be invoked as a justification of torture.

92. The Committee notes with concern that the State party has neither incorporated the Convention into its legislation nor introduced corresponding provisions to implement several articles, in particular:



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- (a) The lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention;
- (b) The lack of an absolute prohibition of torture in accordance with article 2 of the Convention;
- (c) The absence of universal jurisdiction for acts of torture in Ugandan law;
- (d) The lack of compliance with other articles in the Convention, including articles 6 to 9.

93. The Committee is further concerned about:

- (a) The length of pre-trial detention, including detention beyond 48 hours as stipulated by article 23, clause 4, of the Constitution and the possibility of detaining treason and terrorism suspects for 360 days without bail;
- (b) The reported limited accessibility and effectiveness of *habeas corpus*;
- (c) The continued allegations of widespread torture and ill-treatment by the State's security forces and agencies, together with the apparent impunity enjoyed by its perpetrators;
- (d) The wide array of security forces and agencies in Uganda with the power to arrest, detain and investigate;
- (e) The disproportion between the high number of reports of torture and ill-treatment and the very small number of convictions for such offences, as well as the unjustifiable delays in the investigation of cases of torture, both of which contribute to the impunity prevailing in this area;
- (f) The pervasive problem of sexual violence, including in places of detention and in camps for internally displaced persons;
- (g) Alleged reprisals, intimidation and threats against persons reporting acts of torture and ill-treatment;
- (h) The magnitude of the problem of abduction of children by the Lord's Resistance Army, in particular in northern Uganda;
- (i) Reports of customary torture in the area of Karamuja.

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94. The Committee takes note of the explanation provided by the delegation about the outlawing of “ungazetted” or unauthorized places of detention or “safe houses” where persons have been subjected to torture by military personnel. Nevertheless, it remains concerned about the widespread practice of torture and ill-treatment of persons detained by the military as well as by other law enforcement officials.

95. While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about the frequent lack of implementation by the State party of the Commission’s decisions concerning both awards of compensation to victims of torture and the prosecution of human rights offenders in the limited cases in which the Commission had recommended such prosecution.

...

97. The Committee recommends that the State party take all necessary legislative, administrative and judicial measures to prevent acts of torture and ill-treatment in its territory, and in particular that it:

- (a) Adopt a definition of torture that covers all the elements contained in article 1 of the Convention, and amend domestic penal law accordingly;
- (b) Adopt domestic legislation to implement the principle of *non-refoulement* in article 3 of the Convention;
- (c) Ensure that acts of torture become subject to universal jurisdiction in Ugandan law in accordance with article 5 of the Convention;
- (d) Ensure compliance with several articles of the Convention, including articles 6 to 9, for example by setting up a Law Commission;
- (e) Reduce the length of pre-trial detention;
- (f) Enhance the accessibility and effectiveness of *habeas corpus*;
- (g) Take vigorous steps to eliminate impunity for alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try and, where appropriate, convict the perpetrators of torture and ill-treatment, impose appropriate sentences on them and properly compensate the victims;
- (h) Minimize the number of security forces and agencies with the power to arrest, detain and investigate and ensure that the police remain the primary law enforcement agency;

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- (i) Abolish the use of “ungazetted” or unauthorized places of detention or “safe houses”, and immediately provide information about all places of detention;
- (j) Allow independent human rights monitors, including the Uganda Human Rights Commission, full access to all official and non-official places of detention, without notice;
- (k) Strengthen the Uganda Human Rights Commission and ensure that its decisions are fully implemented, in particular concerning awards of compensation to victims of torture and prosecution of perpetrators;
- (l) Take effective steps to ensure that all persons reporting acts of torture or ill-treatment are protected from intimidation and from any unfavourable consequences of their action in making such a report;
- (m) Establish and promote effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and psychological and medical assistance to victims;
- (n) Act without delay to protect the civilian population in areas of armed conflict in northern Uganda from violations by the Lord’s Resistance Army and members of the security forces. In particular, the State party should protect internally displaced persons confined in camps, which are constantly exposed to attacks from the Lord’s Resistance Army;
- (o) Take the necessary steps, as a matter of extreme urgency and in a comprehensive manner, to prevent the abduction of children by the Lord’s Resistance Army and to facilitate the reintegration of former child soldiers into society;
- (p) Take effective measures, including judicial measures, to prevent mob justice;
- (q) Take immediate and effective steps to put an end to customary torture in the area of Karamuja.

98. The Committee further recommends that the State party:

- (a) Establish an effective national legal aid scheme;
- (b) Enhance its efforts to conclude the legislative process and enact the new refugee bill and subsequently take all measures to ensure its full implementation in practice, in line with international refugee and human rights law;

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(c) Enact the Prison Bill of 2003 to counter widespread torture in local government prisons;  
...

- Bahrain, CAT, A/60/44 (2005) 44 at paras. 107-109.

107. The Committee notes the following positive developments:

(a) The extensive political, legal and social reforms on which the State party has embarked, including:

(i) The adoption of the National Action Charter in 2001 which outlines reforms aimed at enhancing non-discrimination, due process of law and the prohibition of torture and arbitrary arrest and stating, *inter alia*, that any evidence obtained through torture is inadmissible;

(ii) The promulgation of the amended Constitution;

(iii) The creation of the Constitutional Court in 2002;

(iv) The establishment of a new bicameral parliament with an elected chamber of deputies;

(v) Decree No. 19 of 2000 giving effect to the new constitutional provision establishing the Higher Judicial Council, drawing a clear dividing line between the executive branch and the judiciary and thereby reinforcing a separation of powers stipulated in the Constitution;

(vi) Decree No. 4 of 2001 abolishing the State Security Court which had jurisdiction over offences against the internal and external security of the State and emergency legislation, which are now heard by the ordinary criminal courts;

(vii) Decree No. 11 of 2001 repealing the State Security Law;

(b) The State party's accession to international human rights treaties including the Convention against Torture in 1998 and the Convention on the Elimination of All Forms of Discrimination against Women in 2002 and assurances from the delegation that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights "have been agreed upon and are in the process of ratification";

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- (c) The withdrawal of its reservation to article 20 of the Convention;
- (d) The visit to Bahrain in 2001 by the Working Group on Arbitrary Detention which was granted unrestricted access to all prisons and police station holding cells and was able to speak freely and without witnesses to prisoners it selected at random;
- (e) The publication of the foreign worker's manual;
- (f) Reports that systematic torture no longer takes place following the 2001 reforms.

108. The Committee expresses its concern at:

- (a) The persistent gap between the legislative framework and its practical implementation with regard to the obligations of the Convention;
- (b) The lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention;
- (c) The large number of allegations of torture and other cruel, inhuman or degrading treatment or punishment of detainees committed prior to 2001;
- (d) Reports of *incommunicado* detention of detained persons following the ratification of the Convention and prior to 2001, for extended periods, particularly during pre-trial investigations;
- (e) The inadequate access to external legal advice while in police custody, to medical assistance and to family members, thereby reducing the safeguards available to detainees;
- (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;
- (h) The inadequate availability in practice of civil compensation and rehabilitation for victims of torture prior to 2001;
- (i) Certain provisions of the draft law on counter-terrorism which, if adopted, would reduce

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safeguards against torture and could re-establish conditions that characterized past abuses under the State Security Law. These provisions include, *inter alia*, the broad and vague definition of terrorism and terrorist organizations and the transfer from the judiciary to the public prosecutor of authority to arrest and detain, in particular, to extend pre-trial detention;

(j) Lack of access by independent monitors to visit and inspect all places of detention without prior notice, notwithstanding the assurances of the State party that it will allow some access by civil society organizations;

...

(l) Information received regarding limits on human rights non-governmental organizations to conduct their work, in particular regarding activities relevant to the Convention, within the country and abroad;

(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;

(n) The rejection by the House of Deputies in March 2005 of the proposal to establish an independent national human rights commission;

(o) The over broad discretionary powers of the sharia court judges in the application of personal status law and criminal law and, in particular, reported failures to take into account clear evidence of violence confirmed in medical certificates following violence against women;

(p) Reports of the beating and mistreatment of prisoners during three strikes in 2003 at Jaw Prison, followed by an agreement to establish an investigative commission whose findings, however, have not been made public.

109. The Committee recommends that the State party:

(a) Adopt in domestic penal law a definition of torture in terms consistent with article 1 of the Convention, including the differing purposes set forth therein, and ensure that all acts of torture are offences under criminal law and that appropriate penalties taking into account the grave nature of the offences are established;

...

(c) Respect the absolute nature of article 3 in all circumstances and fully incorporate it into

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domestic law;

(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;

(e) Ensure that its legal system provides victims of past acts of torture with redress and an enforceable right to fair and adequate compensation;

(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;

(g) Establish an independent body with a mandate to visit and/or supervise places of detention without prior notice, and allow impartial and NGOs to make visits to prisons and places where the authorities keep detainees;

(h) Fully ensure the independence of the judiciary and include female judicial officials in its judicial system;

(i) Consider adopting a Family Code, including measures to prevent and punish violence against women, especially domestic violence, including fair standards of proof;

(j) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, and that detainees held by the Criminal Investigation Department are given prompt access to a judge;

(k) Take effective measures to prevent and redress the serious problems commonly faced by foreign workers, particularly female domestic workers;

(l) Consider the establishment of a national human rights institution in accordance with the Paris Principles;

(m) Remove inappropriate restrictions on the work of NGOs, especially those dealing with issues related to the Convention;

(n) Ensure that law enforcement, civil, military and medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual deprived of his/her liberty are trained to recognize the physical consequences of

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torture and respect the absolute prohibition of torture;

...

### **CRC**

- Kenya, CRC, CRC/C/111 (2001) 21 at paras. 114-117.

114. While the Committee notes that corporal punishment has been formally banned in schools (April 2001) as a matter of policy, it is deeply concerned that this form of punishment continues to be practised in schools, as well as in the juvenile justice system, in the family and in care institutions, with resulting cases of permanent injury and even death.

115. The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, in the juvenile justice system, in schools and care institutions, and in the family. The Committee also recommends that the State party monitor the ban on corporal punishment in schools. The Committee encourages the State party to reinforce its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

116. The Committee is concerned about the incidence of police brutality, particularly against street children, refugee children and those in conflict with the law. Concern is also expressed at the inadequate enforcement of existing legislation to ensure that all children are treated with respect for their physical and mental integrity and their inherent dignity.

117. The Committee strongly recommends that all appropriate measures be taken to implement fully the provisions of articles 37 (a) and 39 of the Convention. In this regard, the Committee recommends that greater efforts be made to prevent all forms of torture and inhuman or degrading treatment by the police and facilitate the recovery of child victims through, *inter alia*, rehabilitation and reintegration. Additionally, it is recommended that the State party effectively investigate these cases and ensure that perpetrators of such brutality against children are brought to justice.

- Portugal, CRC, CRC/C/111 (2001) 48 at paras. 230 and 231.

230. Noting its 1995 concluding observations, the Committee is concerned that corporal punishment continues to be practised within the family, there is a lack of legislation prohibiting such punishment, and that insufficient measures have been adopted to prevent



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corporal punishment in this context.

231. The Committee recommends that the State party:

(a) Adopt legislation prohibiting corporal punishment in the family and in any other contexts not covered by existing legislation;

(b) Develop mechanisms to end the practice of corporal punishment, including the use of information campaigns targeting parents, teachers and children;

(c) Promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society;

(d) Develop mandatory reporting systems for professionals working with children who detect the use of corporal punishment in the family.

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 306, 307, 316 and 317.

306. The Committee is seriously concerned that, contrary to article 37 (a) of the Convention, under the 1994 Juvenile Act there is a possibility that persons under 18 may be subject to judicial sanctions such as flogging.

307. The Committee recommends that the State party take immediate steps to ensure that the law prohibits the imposition of flogging and other forms of cruel, inhuman or degrading treatment or punishment on persons who may have committed crimes when they were under 18.

...

316. Noting the 1993 Ministerial Decree which bans corporal punishment in schools, the Committee remains concerned that this issue is not addressed effectively.

317. The Committee recommends that the State party raise awareness of the negative impact of corporal punishment among teachers and other professionals working in schools, and take other appropriate measures to prevent and eliminate it.

### ***See also:***

- United Arab Emirates, CRC, CRC/C/118 (2002) 90 at paras. 398 and 399.

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- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 359 and 360.

359. Further to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his visit to Cameroon (E/CN.4/2000/9/Add.2) and in line with the concluding observations of the Committee against Torture (A/56/44, paras. 60-66) and of the Human Rights Committee (A/55/40, paras. 184-227), the Committee is deeply concerned that children are victims of cruel, inhuman or degrading treatment, sometimes constituting torture, committed notably at police stations, in detention places and in prisons. The Committee is also very concerned at some instances of forced disappearance and extrajudicial execution of children.

360. In the light of the recommendations of the Committee against Torture and of the Human Rights Committee, the Committee recommends that the State party:

- (a) Address the causes and incidence of torture and cruel, inhuman or degrading treatment of children, in order to end and prevent these violations of children's rights;
- (b) Establish an independent mechanism to investigate reports of torture, forced disappearance and extrajudicial execution of children and to bring to justice the persons responsible;
- (c) Adopt legislative measures for the fullest compensation and rehabilitation of child victims of torture;
- (d) Establish accessible and child-sensitive structures for complaints of children; and
- (e) Systematically train the police force, prison staff and the judiciary on the human rights of children.

- Gambia, CRC, CRC/C/111 (2001) 89 at para. 466.

466. ...[T]he Committee recommends that the State party:

- (a) Prohibit the use of the death penalty, life imprisonment and whipping;  
...
- (g) Abolish the use of corporal punishment within the juvenile justice system;  
...

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- Paraguay, CRC, CRC/C/111 (2001) 103 at paras. 514 and 515.

514. The Committee...is deeply worried at the number of cases of torture and ill-treatment of conscripts, including children, by their superiors and at cases of unclarified deaths of conscripts, which also involved minors. In particular, it notes with concern that the majority of these deaths and ill-treatment cases were not investigated, and that there are reports of forcible recruitment of children, especially in rural areas, and of falsification of documents proving their age.

515. The Committee urges the State party:

(a) To put an end to the practice of recruiting children into the Paraguayan armed forces and national police, in line with its previous recommendation (CRC/C/15/Add.75, para. 36), and punish those involved in forcible recruitment;

(b) To investigate all cases of ill-treatment and death of conscripts and suspend from duty the officials implicated in such accidents;

(c) To prosecute and punish those responsible for these violations;

(d) To provide compensation to the victims of human rights violations during military service or their families;

(e) To provide training on human rights, including children's rights, to army officials; and

(f) To ratify the Optional Protocol to the Convention on the involvement of children in armed conflict, setting 18 years as the minimum age for all military recruitment.

- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 562 and 563.

562. The Committee is deeply concerned by numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment, including for purposes of extorting confessions. The Committee deplores the insufficient efforts to investigate allegations of torture, as well as the failure to prosecute alleged perpetrators.

563. In the light of article 37 of the Convention, and recalling the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979, the Committee urges the State party to:

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- (a) Take all necessary effective steps to prevent incidents of ill-treatment from occurring;
  - (b) Implement the recommendations made by the Human Rights Committee (CCPR/CO/71/UZB), and the Committee against Torture (A/55/44, paras. 76-81);
  - (c) Provide the militia with training on how to deal with persons under 18;
  - (d) Ensure children are adequately informed of their rights when they are arrested and detained;
  - (e) Ensure that complaints procedures are simplified so that responses are appropriate, timely and child-sensitive, and provide rehabilitative support for victims.
- Greece, CRC, CRC/C/114 (2002) 25 at paras. 150 and 151.

150. Taking into consideration the efforts that have been made in the past 10 years and the recent involvement of children with disabilities and their families in policy making, especially in relation to the Ministry of Education's special education department, and the progress made in modifying access to streets, buses, trains and some buildings for persons with disabilities, the Committee remains concerned that:

...

(d) Many children with disabilities in need of alternative care are institutionalized, that residential care for persons with disabilities remains of poor quality, limiting respect for children's rights, and that children in some institutions experience abuse and inhuman or degrading treatment;

...

151. Noting the State party's efforts in this regard, and in the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, para. 338), the Committee recommends that the State party:

...

(d) Ensure that children with disabilities, in particular those children living in institutions, are protected from all forms of neglect, abuse or inhuman or degrading treatments;

...

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- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 207, 208 and 230.

207. The Committee is deeply concerned that torture is still used by law enforcement personnel during police investigation and in detention centres as mentioned in the State party's report (para. 159).

208. The Committee urges the State party to take all necessary measures:

(a) To immediately put an end to these forms of torture or violence against children and to address their causes in order to prevent their recurrence;

(b) To prevent cases of torture through, *inter alia*, the presence of social workers during investigations and in places of detention;

(c) To establish an independent mechanism to investigate reports of torture and to bring to justice the persons responsible;

(d) To adopt legislative measures for the fullest compensation and rehabilitation of child victims of torture;

(e) To establish accessible and child-sensitive structures to receive and address complaints of children; and

(f) To train systematically the police forces, prison staff and the judiciary on the human rights of children.

...

230. The Committee recommends that the State party:

...

(i) Implement the ban on corporal punishment in schools and train teachers in the use of alternative measures of discipline;

...

### ***See also:***

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at para. 478.

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 485 and 486.

485. The Committee is encouraged by the efforts made by the State party towards greater openness and accountability with respect to human rights, including the withdrawal of its

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reservation to article 20 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the decision to transfer the public prosecution office from the Ministry of the Interior to the Ministry of Justice. The Committee regrets, however, that no information has been provided in the State party's report concerning the serious allegations of torture and arbitrary arrest of persons under 18 referred to in other reports, including the decisions and opinions of the Working Group on Arbitrary Detention (e.g. E/CN.4/1997/Add.1, E/CN.4/1998/44/Add.1); and the reports of the Special Rapporteur on torture (e.g. E/CN.4/1997/7/Add.1, E/CN.4/1999/61, E/CN.4/2000/9, E/CN.4/2001/66).

486. The Committee strongly recommends that the State party:

- (a) Investigate effectively all cases of torture and inhuman and degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;
- (b) Pay full attention to the victims of these violations and provide them with adequate compensation, recovery and social reintegration...

- Switzerland, CRC, CRC/C/118 (2002) 78 at paras. 334-337.

334. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against foreign children and at the prevalence of abuse.

335. The Committee endorses the recommendations made by the Committee against Torture in that regard (A/53/44, para. 94) and, in light of article 37 of the Convention, recommends that the State party:

- (a) Set up child-sensitive mechanisms in all cantons to receive complaints against law-enforcement officers regarding ill-treatment during arrest, questioning and police custody; and
- (b) Systematically train the police force on the human rights of children.

336. While noting that corporal punishment is prohibited in schools, the Committee is concerned that according to the jurisprudence of the Federal Tribunal, corporal punishment is not considered as physical violence if it does not exceed the level generally accepted by society. In addition, the Committee is concerned that corporal punishment within the family is not prohibited under law.

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337. The Committee recommends that the State party explicitly prohibit all practices of corporal punishment in the family, schools and in institutions and conduct information campaigns targeting, among others, parents, children, law enforcement and judicial officials and teachers, explaining children's rights in this regard and encouraging the use of alternative forms of discipline in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28, paragraph 2.

- Saint Vincent and the Grenadines, CRC, CRC/C/118 (2002) 101 at paras. 463 and 464.

463. While recognizing the State party's efforts in this domain the Committee remains concerned that:

...

(c) Children are sometimes forced by the police to confess to criminal offences when they are held in custody at police stations, and are sometimes subject to ill-treatment;

...

(h) The Corporal Punishment of Juveniles Act allows for the caning of juveniles who have been found guilty of crime.

464. The Committee recommends that the State party:

...

(d) Ensure the protection of child detainees from ill-treatment and/or being forced to make confessions by the police;

...

(f) Urgently prohibit the corporal punishment of children in the context of the juvenile justice system;

...

- Spain, CRC, CRC/C/118 (2002) 117 at paras. 497 and 498.

497. In light of its previous recommendation ([CRC/C/15/Add.28], para.18), the Committee deeply regrets that article 154 of the Civil Code, stating that parents "may administer punishment to their children reasonably and in moderation", has not yet been revised. It acknowledges the information provided in the State party's replies to the list of issues that a draft law for the revision of article 154 is under development.

498. The Committee reiterates its previous recommendation to amend article 154 in order to delete the reference to reasonable chastisement. It further recommends that the State party:

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(a) Prohibit all forms of violence, including corporal punishment, in the upbringing of children, in conformity with article 19 of the Convention;

(b) Conduct awareness campaigns and promote alternative forms of discipline in families.

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 61 and 62.

61. The Committee expresses its deep concern about institutional violence and specific reports of torture and ill-treatment of children held at police stations (*commissarias*) which, in some cases, have resulted in death. It is also extremely concerned at additional reports of police brutality, specifically the phenomenon of *gatillo fácil* (easy trigger syndrome), especially in the Province of Buenos Aires, which has led to the death of many children. It notes that, according to the Supreme Court of Justice of the Province of Buenos Aires, several of the children who died had previously reported pressures and torture by the provincial police and that the majority of the cases are not adequately investigated and the perpetrators not brought to justice.

62. In light of article 37 (a) of the Convention, the Committee urges the State party:

(a) To undertake a study on the above-mentioned issues in order to assess their extent, scope and nature;

(b) To enforce the recently signed National Plan of Action for the Prevention and Elimination of Institutional Violence;

(c) To investigate, in an effective way and within a reasonable time, reported cases of killings, torture and ill-treatment of children;

(d) Urgently to take measures to transfer from active duty or suspend, as appropriate, alleged perpetrators while they are under investigation, and release them from service if convicted;

(e) To provide systematic training of law enforcement personnel in human and children's rights and ways to avoid the use of force;

(f) To establish a complaint mechanism, which should be easily accessible and child-sensitive and inform children about their rights, including the right to complain;

(g) To ensure that independent and qualified medical personnel are required to carry out regular examinations of child detainees;



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(h) In light of article 39, to take all appropriate measures to ensure possibilities for physical and psychological recovery and social reintegration for child victims of torture and/or ill-treatment, and that they receive compensation.

...

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 119, 120 and 125-130.

119. The Committee is concerned at the continued use of plastic baton rounds as a means of riot control in Northern Ireland as it causes injuries to children and may jeopardize their lives.

120. Following the recommendations of the Committee against Torture (A/54/44, para. 77 (d)), the Committee urges the State party to abolish the use of plastic baton rounds as a means of riot control.

...

125. The Committee is particularly concerned at recent figures according to which between April 2000 and February 2002, 296 children sustained injuries as a result of restraints and measures of control applied in prison. In addition, the Committee is concerned at the frequent use of physical restraint in residential institutions and in custody, as well as at the placement of children in juvenile detention and in solitary confinement in prisons.

126. The Committee urges the State party to review the use of restraints and solitary confinement in custody, education, health and welfare institutions throughout the State party to ensure compliance with the Convention, in particular articles 37 and 25.

127. The Committee welcomes the abolition of corporal punishment in all schools in England, Wales and Scotland following its 1995 recommendations ([CRC/C/15/Add.34], para. 32), but is concerned that this abolition has not yet been extended to cover all private schools in Northern Ireland. It welcomes the adoption by the National Assembly for Wales of regulations prohibiting corporal punishment in all forms of day care, including childminding, but is very concerned that legislation prohibiting all corporal punishment in this context is not yet in place in England, Scotland or Northern Ireland.

128. In light of its previous recommendation ([CRC/C/15/Add.34], para. 31), the Committee deeply regrets that the State party persists in retaining the defence of “reasonable chastisement” and has taken no significant action towards prohibiting all corporal punishment of children in the family.

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129. The Committee is of the opinion that the Government's proposals to limit rather than to remove the "reasonable chastisement" defence do not comply with the principles and provisions of the Convention and the aforementioned recommendations, particularly since they constitute a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, paragraph 36). Moreover, they suggest that some forms of corporal punishment are acceptable, thereby undermining educational measures to promote positive and non-violent discipline.

130. The Committee recommends that the State party:

(a) With urgency adopt legislation throughout the State party to remove the "reasonable chastisement" defence and prohibit all corporal punishment in the family and in any other contexts not covered by existing legislation;

(b) Promote positive, participatory and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, involving children and parents and all those who work with and for them, and carry out public education programmes on the negative consequences of corporal punishment.

- Sudan, CRC, CRC/C/121 (2002) 53 at paras. 254, 255, 288 and 289.

254. The Committee is concerned that corporal punishment is widely practiced in the State party, including within the family, schools and other institutions; that children have been the victims of violence by, among others, the police; and that acts of torture, rape and other cruel, inhuman or degrading treatment have been committed against children in the context of the armed conflict.

255. The Committee recommends that the State party:

(a) Prohibit under law the practice of corporal punishment in the family, in schools and in all other contexts and make use of legislative and administrative measures, as well as public education initiatives, to end the use of corporal punishment, including the provision of information on alternative non-violent methods of discipline;

(b) Prevent all forms of violence against children and make sure that perpetrators of violence against children, including the police, are prosecuted;

(c) Immediately end the practice of detaining children in camps where they suffer torture and other cruel, inhuman or degrading treatment or punishment and make sure that those

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responsible for such acts are brought to justice;

(d) Take into consideration the other recommendations of the Committee adopted at its days of general discussion on violence against children (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745);

(e) Seek assistance from, among others, UNICEF and the World Health Organization (WHO).

...

288. Noting the reference to a juvenile court project in the State party's response to the list of issues, the Committee is concerned that the holistic approach to addressing the problem of juvenile crime advocated in the Convention, including with respect to prevention, procedures and sanctions, has not been sufficiently taken into consideration by the State party...

289. The Committee recommends that the State party:

...

(e) End the imposition of corporal punishment, including flogging, amputation and other forms of cruel, inhuman or degrading treatment or punishment, on persons who may have committed crimes while under 18;

...

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 328-330.

328. The Committee is concerned that the definition of torture in the Criminal Code 2001 is not compatible with the definition of torture in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as it does not explicitly include acts of torture, including psychological torture, committed by State officials. The Criminal Code also fails to declare evidence extracted under torture inadmissible.

329. The Committee is also concerned at continued allegations of children, in particular Roma children, being ill-treated and tortured by law enforcement officials and that these allegations are not effectively investigated by an independent authority.

330. The Committee recommends that the State party:

(a) Amend the legislation defining torture to bring it into line with article 37 (a) of the Convention;

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- (b) Respond to allegations of torture and other cruel, inhuman or degrading treatment or punishment of children;
  - (c) Ensure the inadmissibility of evidence obtained through the use of torture;
  - (d) Take measures to ensure follow-up to the recommendations made by the Human Rights Committee and the Committee against Torture as they relate to the Convention on the Rights of the Child;
  - (e) Take immediate measures to stop police violence against children belonging to minorities, in particular the Roma, and challenge the prevailing impunity for such acts of harassment;
  - (f) Take all legislative measures to prohibit all forms of torture and other cruel, inhuman or degrading treatment or punishment;
  - (g) Provide support for the care, recovery, reintegration and compensation of victims.
- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 457, 458, 463 and 464.

457. The Committee is concerned at the poor conditions of detention of children in police or gendarmerie stations, amounting in many instances to cruel, inhuman or degrading treatment as spelled out in article 37 (a) of the Convention. In addition, the Committee is concerned at methods used by law enforcement officials which may jeopardize the life of children.

458. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, particularly in police and gendarmerie stations, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims receive compensation.

...

463. While noting that child abuse is prohibited under the Penal Code, the Committee is concerned at the incidence of abuse, including sexual abuse, and neglect of children in the State party and that insufficient efforts have been made to protect children...

464. The Committee recommends that the State party:

...

    - (b) Take all necessary steps to introduce the legal prohibition of the use of corporal punishment in schools and other institutions and at home;

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(c) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions to perpetrators, having due regard to guaranteeing the right to privacy of the child;

(d) Establish an appropriate complaint procedure and inform children about this mechanism;

(e) Provide services for the physical and psychological recovery and social reintegration of victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and take measures to prevent the criminalization and stigmatization of victims;

...

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 527 and 528.

527. ...[T]he Committee is concerned that corporal punishment is widely practised in the home, in schools and other institutions, such as prisons, and in alternative care contexts.

528. The Committee recommends that the State party:

...

(d) Expressly prohibit corporal punishment in the home, schools, and all other institutions;

(e) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

### ***See also:***

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 63 and 64.

- Israel, CRC, CRC/C/121 (2002) 131 at paras. 553 and 586-589.

553. The Committee welcomes:

...

(c) The prohibition of corporal punishment in homes, schools and other institutions;

...

586. The Committee is seriously concerned at allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children by police officers during arrest and interrogation and in places of detention (i.e. Ma'ale Adummim, Adorayim, Beit El, Huwarra, Kedumin, Salem and Gush Etzion police station and prisons such as Terza,

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Ramleh, Megiddo and Telmond).

587. The Committee strongly recommends that the State party:

- (a) Establish and strictly enforce instructions for full compliance with the principles and provisions of the Convention by all persons involved in the arrest, interrogation and detention of Palestinian and other children in the State party;
- (b) Investigate effectively all cases of torture and inhuman or degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;
- (c) Pay full attention to the victims of these violations and provide them with opportunities for adequate compensation, recovery and social reintegration...

588. The Committee welcomes the many efforts of the State party to prevent and combat all forms of violence and abuse within the family, in schools and in other institutions which care for children, but is concerned at the apparently limited impact of these efforts owing to, among other things, the lack of a comprehensive strategy and adequate resources.

589. The Committee recommends that the State party:

- (a) Establish a national and comprehensive strategy to prevent and combat violence and abuse within the family, in schools and in other institutions caring for children, which should include, among other things, a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address these practices;
- (b) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;
- (c) Strengthen procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary;
- (d) Allocate sufficient resources for the provision of care, recovery and reintegration for victims;
- (e) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment.

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- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 116 and 117.

116. The Committee notes with great concern that corporal punishment is officially permitted in schools. The Committee is of the opinion that corporal punishment does not conform with the principles and provisions of the Convention, particularly since it constitutes a serious violation of the dignity of the child (see similar observations of the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.79, para. 36). The fact that the Ministry of Education guidelines leave the decision on whether to use corporal punishment in schools to the individual school administrators suggests that some forms of corporal punishment are acceptable and therefore undermines educational measures to promote positive, non-violent forms of discipline.

117. The Committee recommends that the State party:

(a) Implement the recommendation of the National Commission on Human Rights that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes towards corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment.

- Italy, CRC, CRC/124 (2003) 36 at paras. 172 and 173.

172. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against children and at the prevalence of abuse, in particular against foreign and Roma children.

173. In line with its previous recommendations ([CRC/C/15/Add.41], para. 20), the Committee recommends that the State party:

(a) Incorporate the crime of torture or other cruel, inhuman or degrading treatment or punishment into criminal law;

(b) Set up child-sensitive mechanisms for receiving complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and within detention centres;

(c) Systematically train the police and carabinieri forces, as well as professionals at detention

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centres, on the human rights of children.

- Romania, CRC, CRC/124 (2003) 49 at paras. 232, 233, 240 and 241.

232. The Committee is concerned at the high number of allegations of children being ill-treated and tortured by law enforcement officials received by the Special Rapporteur on the question of torture. The Committee regrets that the majority of these allegations have not been responded to and is concerned that they may not have been effectively investigated by an independent authority. Furthermore, the Committee is concerned that cooperation with the Special Rapporteur in this respect has been insufficient.

233. The Committee recommends that the State party:

(a) Investigate all allegations of torture and other cruel, inhuman or degrading treatment or punishment of children and make all efforts to cooperate fully with the Special Rapporteur on the question of torture;

(b) Ensure the inadmissibility of evidence obtained through the use of torture;

(c) Bearing in mind the previous recommendation of the Committee ([CRC/C/15/Add.16], para. 20), undertake measures to follow up on the recommendations made by the Human Rights Committee (CCPR/C/79/Add.111, para. 12);

(d) Take immediate measures to stop police violence against all children and challenge the prevailing culture of impunity for such acts;

(e) Take legislative or other measures to prohibit all forms of torture and other cruel, inhuman or degrading treatment or punishment;

(f) Provide care, recovery, reintegration and compensation for victims of torture.

...

240. The Committee notes the recent efforts of NGOs related to prevention of child abuse and neglect, as well as the statement made by the Head of State to the special session of the General Assembly on children referring to envisaged special measures to prevent child abuse. Nevertheless, the Committee reiterates its previous concern [CRC/C/15/Add.16] at the apparent limited effectiveness of measures to raise awareness about the harmful consequences of neglect and abuse, including sexual abuse, in the family, schools and institutions, as well as to tackle these problems...It is also concerned that corporal punishment and other forms of abuse and neglect continue to exist in the family.



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241. The Committee recommends that the State party:

- (a) Expressly prohibit corporal punishment in the home, school and institutions;
- (b) Promote alternative methods of discipline;
- (c) Establish effective procedures and mechanisms for receiving, monitoring and investigating cases of abuse, ill-treatment and neglect and for prosecuting offenders, ensuring that the abused child is not victimized in legal proceedings and that his or her privacy is protected;
- (d) Strengthen the reporting system, through the training of teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and handling of cases of ill-treatment;
- (e) Ensure the provision of support services to child victims in legal proceedings;
- (f) Ensure the physical and psychological recovery and social reintegration of child victims, in accordance with article 39 of the Convention;

...

- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 361 and 362.

361. The Committee is concerned that there is no legislation explicitly prohibiting corporal punishment, and that it is practised in the family, in schools and in other public institutions, including alternative care contexts.

362. The Committee recommends that the State party take action to address ill-treatment and abuse committed against children in the family, in schools, in the streets, in institutions and in places of detention through, *inter alia*:

...

(b) Ensuring that allegations of ill-treatment by the police and police misconduct are promptly, thoroughly and impartially investigated by an independent authority and that those responsible are identified and brought before a competent tribunal that will apply sanctions provided for by the law;

...

(e) Implementing training programmes to promote respect for children belonging to minority groups, in particular Roma children, and monitoring the treatment of children in both basic and special schools in order to ensure the protection of the physical and psychological

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integrity of all children while in the care of school officials;

(f) Taking all the necessary steps to enact legislation prohibiting the use of corporal punishment in schools, institutions, in the family and in any other context;

(g) Making use of legislative and administrative measures, as well as public education initiatives, to end the use of corporal punishment and ensure that this is adhered to;

...

- Haiti, CRC, CRC/124 (2003) 95 at paras. 395, 428 and 429.

395. The Committee welcomes:

(a) The adoption of the 2001 Law prohibiting the use of corporal punishment within the family and in schools;

...

428. The Committee welcomes the Act prohibiting corporal punishment (August 2001) within the family and at schools, but remains concerned at the persistent practice of corporal punishment by parents or teachers and the ill-treatment of child domestics (*restaveks*)...

429. The Committee recommends that the State party:

(a) Take all necessary measures for the effective implementation of the law prohibiting corporal punishment, in particular by making use of information and education campaigns to sensitize parents, teachers, other professionals working with children and the public at large to the harm caused by corporal punishment and to the importance of alternative, non-violent forms of discipline, as foreseen in article 28, paragraph 2, of the Convention;

(b) Investigate in an effective way reported cases of ill-treatment of children by law enforcement officers and ensure that alleged offenders are transferred from active duty or suspended while they are under investigation, dismissed and punished if convicted;

(c) Provide for the care, recovery and reintegration of child victims.

- Eritrea, CRC, CRC/C/132 (2003) 8 at paras. 55 and 56.

55. The Committee is concerned at the lack of data on ill-treatment of children, including child abuse and corporal punishment. It also notes with concern that corporal punishment

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is not expressly prohibited by law and is widely practised in the home and in institutions.

56. The Committee recommends that the State party:

(a) Establish a mechanism to collect data on the victims and perpetrators of abuse, disaggregated by gender and age, in order to assess properly the extent of the problem and to design policies and programmes to address it;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children and, in collaboration with community leaders and others, promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(c) Expressly prohibit by law corporal punishment in the home, schools and other institutions;

(d) Establish effective procedures and mechanisms to receive, monitor and investigate complaints of abuse, including intervening where necessary, and ensure that victims have access to assistance for their recovery;

(e) Seek technical assistance from, among others, UNICEF in this regard.

- Cyprus, CRC, CRC/C/132 (2003) 21 at para. 122.

122. The Committee welcomes the decision of the Government to publish the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Cyprus from 22 to 30 May 2000, and notes that the findings of the visit indicated that physical ill-treatment by the police remained a serious problem in Cyprus. The Committee further welcomes the responses of the Government to the report and the measures undertaken to combat ill-treatment, in particular as they relate to children between 10 and 18.

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 181-184.

181. The Committee notes that the Constitutional Court has outlawed the practice of corporal punishment (*John Banda v. the People*, HPA/6/1998), but remains concerned that corporal punishment is still practised and accepted in schools, families, and care and juvenile detention institutions.

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182. The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment, in schools and care institutions, as well as in families. The Committee encourages the State party to reinforce its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

183. The Committee is deeply concerned about allegations of ill-treatment by law enforcement officers against street children and children in custody in police stations and other detention centres, despite the circular of 27 December 1999 ordering prison authorities to stop the practice of caning.

184. The Committee recommends that the State party:

(a) Set up child-sensitive mechanisms to receive complaints against law enforcement officers regarding ill-treatment during arrest, questioning and police custody, and make sure that perpetrators are brought to justice;

(b) Systematically train the police force and prison staff and other authorities on the human rights of children;

(c) Ensure the physical and psychological recovery and social reintegration of child victims of such ill-treatment.

- Sri Lanka, CRC, CRC/C/132 (2003) 48 at paras. 255 and 256.

255. The Committee is deeply concerned that male child offenders can be sentenced to whipping or caning under the Corporal Punishment Ordinance of 1889, and that the Education Ordinance of 1939 permits corporal punishment to be used as a disciplinary measure for boys and girls in schools and that many teachers and principals consider corporal punishment to be an acceptable form of discipline.

256. The Committee reiterates its previous recommendation that the State party repeal the Corporal Punishment Ordinance of 1889 and amend the Education Ordinance of 1939 to prohibit all forms of corporal punishment. Furthermore, the Committee recommends that the State party undertake well-targeted public awareness campaigns on the negative impact corporal punishment has on children, and provide teacher training on non-violent forms of discipline as an alternative to corporal punishment.

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- Libyan Arab Jamahiriya, CRC, CRC/C/132 (2003) 74 at para. 391.

391. The Committee recommends that the State party:

...

(c) Take legislative measures formally to abolish flogging as a punishment;

...

- Jamaica, CRC, CRC/C/132 (2003) 86 at paras. 426 and 427.

426. The Committee is deeply concerned about:

(a) The generally violent environment in which Jamaican children are living;

...

427. The Committee urges the State party to strengthen considerably its efforts to address and condemn violence in society, including violence against women and children, particularly in the context of the family, as well as in schools and other environments. Further, it recommends that the State party take steps to monitor and address any incidents of violence and sexual or other abuse against children and take measures to ensure the rehabilitation of traumatized and victimized children by, *inter alia*:

...

(b) Taking all legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in all contexts in society, as well as taking effective measures for the prevention of violent acts committed within the family, in schools and by the police and other State agents, making sure that perpetrators of these violent acts are brought to justice, thereby putting an end to the practice of impunity;

...

- Kazakhstan, CRC, CRC/C/132 (2003) 129 at paras. 617 and 619.

617. The Committee concurs with the content of the recommendations adopted by the Committee against Torture which are relevant to the situation of children below the age of 18. The Committee further notes that the Head of State expressed his concern that torture and ill-treatment of suspects and detainees by law enforcement officers were becoming widespread and common practices, and welcomes the recent efforts to broaden the scope of punishment for offences committed against children. However, the Committee remains deeply concerned by continuing allegations that the torture of persons under 18, including for purposes of extorting confessions, is widespread, and that the existing procedure for investigating such allegations is ineffective and does not provide for the protection of the

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victims.

...

619. In light of article 37 of the Convention and the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the State party should take all necessary and effective steps to prevent incidents of ill-treatment of children. The Committee recommends that the State party provide training to law enforcement officials, in particular on how to deal with persons under 18 years; ensure that children are adequately informed of their rights when they are detained; ensure that complaint procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; and provide rehabilitative support to victims. The Committee further recommends that the State party implement the recommendations made by the Committee against Torture (A/56/44, para. 129), in particular as they relate to persons under 18 years of age.

- San Marino, CRC, CRC/C/133 (2003) 9 at paras. 43 and 44.

43. The Committee welcomes the information that article 234 of the Penal Code also includes the prohibition of corporal punishment, but is concerned at the lack of any concrete statistical data and other information on the prevention and prevalence of and intervention in cases of child abuse and neglect.

44. The Committee recommends that the State party undertake awareness-raising campaigns on the negative impact of corporal punishment. Furthermore, the State party should undertake studies to assess the prevalence and nature of violence against children and develop a comprehensive plan of action based on this study for the prevention of and intervention in cases of child abuse and neglect, including the provision of services for recovery and social reintegration of victims, taking into account the recommendations of the Committee adopted at its days of general discussion on children and violence (see CRC/C/100, para. 688 and CRC/C/111, paras. 701-745).

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 82, 83 and 95.

82. The Committee welcomes the efforts being made by the State party to discourage corporal punishment by promoting research on alternatives to corporal punishment of children, supporting studies on the incidence of abuse, promoting healthy parenting and improving understanding about child abuse and its consequences. However, the Committee is deeply concerned that the State party has not enacted legislation explicitly prohibiting all forms of corporal punishment and has taken no action to remove section 43 of the Criminal Code, which allows corporal punishment.

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83. The Committee recommends that the State party adopt legislation to remove the existing authorization of the use of “reasonable force” in disciplining children and explicitly prohibit all forms of violence against children, however light, within the family, in schools and in other institutions where children may be placed.

...

95. The Committee recommends that the State party further improve the quality of education throughout the State party in order to achieve the goals of article 29, paragraph 1, of the Convention and the Committee’s general comment No. 1 on the aims of education by, *inter alia*:

...

(d) Adopting appropriate legislative measures to forbid the use of any form of corporal punishment in schools and encouraging child participation in discussions about disciplinary measures.

- New Zealand, CRC, CRC/C/133 (2003) 34 at paras. 141 and 142.

141. The Committee is deeply concerned that despite a review of legislation, the State party has still not amended section 59 of the Crimes Act 1961, which allows parents to use reasonable force to discipline their children. While welcoming the Government’s public education campaign to promote positive, non-violent forms of discipline within the home, the Committee emphasizes that the Convention requires the protection of children from all forms of violence, which includes corporal punishment in the family and which should be accompanied by awareness-raising campaigns on the law and on children’s right to protection.

142. The Committee recommends that the State party:

(a) Amend legislation to prohibit corporal punishment in the home;

(b) Strengthen public education campaigns and activities aimed at promoting positive, non-violent forms of discipline and respect for children’s right to human dignity and physical integrity, while raising awareness about the negative consequences of corporal punishment.

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 206-209, 226 and 229.

206. Although the State party is undertaking some training of police officers and other professionals working with children to promote respect for children’s rights, the Committee is deeply concerned at the numerous reports of torture, serious ill-treatment and sexual abuse

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of children, including children belonging to religious or other minority groups, by police officers in detention facilities and other State institutions.

207. The Committee recommends that the State party:

(a) Assess the scope, nature and causes of violence against children, in particular sexual violence against girls, with a view to adopting a comprehensive strategy and effective measures and policies and to changing attitudes;

(b) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions against perpetrators, with due regard given to guaranteeing the right to privacy of the child;

(c) Add a definition of torture to the Constitution and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(d) Undertake public education campaigns to promote a culture of non-violence.

208. The Committee is deeply concerned that the State party's Penal Code (sect. 89) allows for corporal punishment to be used as a disciplinary measure in schools and at the fact that corporal punishment is widely practised, especially within educational and other institutions and within the family, many times resulting in serious injuries. The Committee is further concerned that, despite the 1996 Abolition of the Punishment of Whipping Act, whipping is still used as a sentence for Hadood crimes.

209. The Committee recommends that the State party, as a matter of urgency:

(a) Repeal section 89 of the Penal Code of 1860 and explicitly prohibit all forms of corporal punishment;

(b) Abolish the sentence of whipping, under any circumstance or law;

(c) Undertake well-targeted public awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.

...

226. The Committee welcomes the measures taken to increase the attendance of girls at schools and the information that a national "Compulsory Primary Education Ordinance" has been promulgated (March 2002), and also notes the modest improvement in the gross



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primary enrolment rate. However, the Committee remains deeply concerned that:

...

(g) The code of conduct for teachers does not prohibit corporal punishment, nor does it deal with the problem of violence against children in school.

...

229. The Committee recommends that the State party:

...

(i) Take proactive measures to eliminate violence against children in schools, notably by including in the code of conduct for teachers the prohibition of corporal punishment and by limiting the role of school counsellors to those functions that help the pupil and revoking their disciplinary functions.

- Madagascar, CRC, CRC/C/133 (2003) 56 at paras. 289 and 290.

289. The Committee is concerned at the poor conditions of detention of children and at incidents of ill-treatment by prison guards, amounting in many cases to cruel, inhuman and degrading treatment prohibited under article 37 (a) of the Convention.

290. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, to provide these children with accessible and safe procedures for filing complaints to an independent body, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims are provided with opportunities for social rehabilitation, full physical and psychological recovery and access to adequate procedures for seeking compensation. The Committee further recommends that the State party take the necessary steps to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- Singapore, CRC, CRC/C/133 (2003) 84 at paras. 427 and 428.

427. The Committee is concerned that the minimum age of criminal responsibility is too low, that all persons in conflict with the law under 18 are not afforded special protection, and that corporal punishment and solitary confinement are used to discipline juvenile offenders.

428. The Committee recommends that the State party:

...

(d) Prohibit the use of corporal punishment, including whipping and caning, and solitary confinement in all detention institutions for juvenile offenders, including police stations;

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...

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 473, 474, 509 and 510.

473. While taking note of the efforts by the State party to raise public awareness of the ill-treatment of children, the Committee is concerned at reports of ill-treatment and violence against children in State institutions such as orphanages and rehabilitation centres, including by law enforcement agents, as well as at the solitary confinement of juvenile and child prisoners. The Committee is also concerned at reports of violence against street children. Furthermore, the Committee expresses its deep concern at the reported inhuman and degrading punishment carried out by order of traditional village councils (“shalishes”) as well as at the increasing incidents of acid attacks on women and girls.

474. The Committee strongly recommends that the State party:

(a) Review its legislation (*inter alia*, Code of Criminal Procedure, 1898) with the aim of prohibiting the use of all forms of physical and mental violence, also within educational and other institutions;

(b) Conduct a study to assess the nature and extent of torture, ill-treatment, neglect and abuse of children, to assess the inhuman and degrading treatment of children attributable to “shalishes”, and effectively to implement policies and programmes as well as to amend and adopt laws to address these issues;

(c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary, and investigate and prosecute cases of torture, neglect and ill-treatment, ensuring that the abused child is not revictimized through legal proceedings and that his or her privacy is protected;

(d) Undertake all necessary measures to prevent and punish police violence;

(e) Take all necessary effective measures to ensure the implementation of the 2002 Acid Control Act and of the 2002 Acid Control Prevention Act;

(f) Provide care, recovery, compensation and reintegration for victims;

...

509. The Committee acknowledges the efforts made by the State party to improve the juvenile justice system. However, the Committee remains concerned at the limited progress achieved in establishing a functioning juvenile justice system throughout the country. In

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particular, the Committee is concerned at:

...

(e) The use of caning and whipping as a sentence for juvenile offenders;

...

510. ...[T]he Committee recommends that the State party:

...

(b) Ensure that the imposition of the death penalty, of life imprisonment without possibility of release, and of caning and whipping as sanctions for crimes committed by persons while under 18 is explicitly prohibited by law;

...

- Georgia, CRC, CRC/C/133 (2003) 111 at paras. 548 and 549.

548. The Committee welcomes the Presidential Decree approving a Plan of Action against Torture for 2003-2005 and the related plan to amend the Criminal Code with a view to strengthening the protection from torture and inhuman or degrading treatment or punishment. However, it remains concerned at the information that children are subjected to torture and other forms of violence and abuse in police stations, institutions and schools.

549. The Committee urges the State party to take all necessary measures for the expeditious and effective implementation of the Plan of Action against Torture, ensuring full protection of children from all forms of violence, proper interrogation, prosecution and sentencing of perpetrators, and the provision of care, recovery and compensation for all child victims.

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 63 and 64.

63. The Committee is deeply concerned that corporal punishment in the family and in schools is widespread, culturally accepted and still lawful.

64. The Committee recommends that the State party:

(a) Amend its current legislation to prohibit corporal punishment everywhere, including in the family, schools and childcare settings;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

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- Armenia, CRC, CRC/C/137 (2004) 36 at para. 217.

217. The Committee encourages the State party to adopt specific legislation and take other measures to prevent violence against children in all circumstances, including corporal punishment. It also recommends that the State party strengthen programmes for the recovery and reintegration of abused children and establish adequate procedures and mechanisms to receive complaints and to monitor, investigate and prosecute cases of ill-treatment. The Committee urges the State party to ensure that all people working with children, such as teachers and care personnel, are made responsible for reporting cases of abuse and neglect. The Committee recommends that the State party launch awareness-raising campaigns on the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment, especially in the family, schools and other institutions and ensure that all people working with children, including law enforcement officials, judges and health professionals, undergo training in how to identify, report and manage cases of ill-treatment.

- India, CRC, CRC/C/137 (2004) 75 at paras. 420 and 421.

420. The Committee is concerned at numerous reports of ill-treatment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children by law enforcement officials.

421. In line with its previous recommendations (CRC/C/15/Add.115, paras. 39-41), the Committee recommends that the State party:

- (a) Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (b) Set up child-sensitive mechanisms to receive complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and in detention centres;
- (c) Investigate and prosecute complaints in a child-sensitive manner;
- (d) Strengthen its efforts to train the law enforcement personnel on the human rights of children; and
- (e) In light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.

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- Slovenia, CRC, CRC/C/137 (2004) 104 at paras. 571 and 572.

571. The Committee is concerned that there is no legislation explicitly prohibiting corporal punishment within the home and that the latest draft amendments to the Marriage and Family Relations Act do not envisage such a prohibition.

572. The Committee recommends that the State party strengthen its efforts to address ill-treatment of children in the family, including by raising awareness of alternative, non-violent forms of discipline through public campaigns. The Committee also urges the State party to consider introducing an explicit prohibition on corporal punishment of children in the family, either in the draft amendments to the Marriage and Family Relations Act or in the special act on preventing violence in the family currently in preparation.

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 57, 58, 65 and 66.

57. The Committee is deeply concerned about the incidence of torture and ill-treatment and the generalized disrespect for fundamental human rights in centres for juvenile offenders in the State party as documented by the Human Rights Procurator's Office, which has a constitutional mandate to monitor the situation of persons deprived of their liberty, in its special report of November 2003 on the conditions in centres of internment for juvenile offenders. The Committee notes with concern the inadequacy of the review procedure established under the Juvenile Offenders Act and of access to the complaint mechanisms for children whose rights have been violated. It is also concerned that the State party was not able to provide information on or give an estimate of the number of registered cases of torture and ill-treatment in such internment centres.

58. The Committee urges the State party to take immediate and effective measures to bring an end to the occurrence of torture and other cruel, inhuman and degrading treatment in internment centres, in particular of juvenile offenders. The State party must ensure that:

(a) The fundamental rights and guarantees of juveniles who have committed a criminal offence set out in the Juvenile Offenders Act are respected, in particular, the prohibition, under all circumstances, of inhuman or degrading disciplinary measures, including: corporal punishment, detention in dark cells or solitary confinement, reduction of food rations, denial of contact with relatives, collective punishment and punishment more than once for the same disciplinary offence;

(b) The monitoring of the situation in detention centres is strengthened and that a system is

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established to register all reported cases of torture and ill-treatment;

(c) Effective mechanisms to investigate and prosecute cases of torture and ill-treatment are created;

(d) Personnel working with juvenile offenders duly comply with the law and are properly trained and informed about their role and responsibilities;

(e) Disciplinary measures and other appropriate legal action are taken against personnel who have undertaken or authorized inhuman or degrading treatment;

(f) Preventive programmes are implemented to address the problems identified in the report of the Human Rights Procurator's Office;

(g) An integrated programme to prevent and eliminate institutional violence is implemented.

...

65. While welcoming the measures taken by the State party to combat domestic violence, the Committee remains concerned at persistent large-scale abuse and violence within the family as well as the prevalence of corporal punishment.

66. The Committee recommends that the State party strengthen current efforts to address the problem of domestic violence and child abuse, including through:

(a) Ensuring the effective implementation of the Domestic Violence Act, including the elimination of corporal punishment;

(b) Public education campaigns about the negative consequences of ill-treatment and preventive programmes, including family development programmes, promoting positive, non-violent forms of discipline;

(c) Ensuring that all victims of violence have access to counselling and assistance with recovery and reintegration;

(d) Providing adequate protection to child victims of abuse in their homes.

- Rwanda, CRC, CRC/C/140 (2004) 36 at paras. 193, 195 and 196.

193. The Committee notes that the Rwandan legislation does not include an explicit prohibition of corporal punishment and is concerned at the persistent practice of corporal

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punishment by parents, teachers and law enforcement officers.

...

195. The Committee notes that Law No. 27/2001 on the Rights of the Child and Protection of Children against Abuse prohibits any act of torture and cruel, inhuman or degrading treatment or punishment against children, but remains concerned at the absence of a definition of those offences in the Penal Code and that Rwanda is not a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

196. The Committee recommends that the State party adopt appropriate measures to combat torture and cruel, inhuman or degrading treatment and that it ratify the Convention against Torture.

- Myanmar, CRC, CRC/C/140 (2004) 81 at paras. 381, 382 and 412-415.

381. The Committee...welcomes the promulgation of Orders of 1999 and 2000 by which forced labour has been prohibited, the accession to ILO Forced Labour Convention, 1930 (No. 29) and the comprehensive Plan of Action for the Elimination of Forced Labour established in collaboration with ILO, but remains concerned at the fact that the Village and Town Acts are still in existence. This concern is also reiterated regarding the existence of the Citizenship Act and the Whipping Act, despite previous recommendations of the Committee to amend or repeal them.

382. In light of its previous recommendations (CRC/C/15/Add.69, para. 28), the Committee recommends that the State party:

...

(b) Repeal the Whipping Act and amend the Citizenship Act and the Village and Town Acts; and

...

412. The Committee is deeply concerned that article 66 (d) of the 1993 Child Law provides for possible “admonition by a parent, teacher, or other person having the right to control the child” and that corporal punishment continues to be regarded as acceptable in society. The Committee is also concerned that the State party has not repealed the Whipping Act and that the orders prohibiting corporal punishment in schools do not seem to be effective.

413. The Committee strongly recommends that the State party repeal article 66 (d) of the 1993 Child Law and prohibit corporal punishment in the family, the schools and other institutions, and undertake education campaigns to educate families and professionals on alternative forms of discipline.

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414. The Committee notes the lack of information regarding ill-conduct by law enforcement officials and army personnel, especially in the light of numerous reports received of torture, serious ill-treatment and sexual abuse, including rape of children by law enforcement officials and army personnel.

415. The Committee recommends that the State party:

(a) Assess the scope, nature and causes of violence against children, in particular sexual violence against girls, with a view to adopting a comprehensive strategy on effective measures and policies and on changing general attitudes;

(b) Duly investigate cases of violence through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and sanction perpetrators, giving due regard to guaranteeing the right to privacy of the child and ensuring that the child is not revictimized during the legal proceedings;

...

- Dominica, CRC, CRC/C/140 (2004) 101 at paras. 485, 486, 503 and 505.

485. The Committee is deeply concerned at the wide use of corporal punishment in the State party. It also notes with concern that corporal punishment is mentioned in the Education Act of 1997 and that the Magistrate Code of Procedure allows the whipping of a male child or a young person.

486. The Committee recommends that the State party:

(a) Remove all provisions from laws that allow corporal punishment and explicitly prohibit corporal punishment by law in the family, schools and other institutions;

(b) Continue the constructive dialogue with political leaders and the judiciary with the aim of abolishing corporal punishment;

...

503. The Committee is concerned at the lack of juvenile courts and at the fact that children may be sentenced to a penalty at the "President's pleasure", to life imprisonment and to whipping in private.

...

505. The Committee also recommends that the State party:

(a) Review the sentencing of children at the "President's pleasure" so that the decision is in



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the hands of the judge;

(b) Abolish the sentences of whipping and life imprisonment;

....

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 65-68, 89 and 90.

65. The Committee notes that the 1997 Law on Torture, the Penal Code and the Statute of the Child and Adolescent (ECA) strongly prohibit torture and ill-treatment. Nevertheless, the Committee is deeply concerned by the gap existing between the law and its implementation, as a significant number of cases of torture, inhuman and degrading treatment have been reported over the last years, including by the Special Rapporteur on the question of torture (E/CN.4/2001/66/Add.2).

66. The Committee urges the State party to implement fully its legislation and to take into account the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, in particular with regard to effective measures to combat impunity...

67. The Committee expresses its concern that corporal punishment is widely practised in the State party and that no explicit legislation exists in the State party to prohibit it. Corporal punishment is used as a disciplinary measure in penal institutions, “reasonable” punishment is carried out in schools and “moderate punishment” is lawful in the family.

68. The Committee recommends that the State party explicitly prohibit corporal punishment in the family, school and penal institutions, and to undertake education campaigns that educate parents on alternative forms of discipline.

...

89. The Committee expresses its grave concern at the significant number of street children and the vulnerability of these children to extrajudicial killings, various forms of violence, including torture, sexual abuse and exploitation, and at the lack of a systematic and comprehensive strategy to address the situation and protect these children...

90. The Committee recommends that the State party:

(a) Develop a comprehensive strategy to address the high number of street children, with the aim of reducing and preventing this phenomenon;

(b) Ensure that street children are provided with adequate nutrition and shelter as well as

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with health care and educational opportunities in order to support their full development, and provide them with adequate protection and assistance.

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 204 and 205.

204. The Committee is deeply concerned about cases of violence among children and young adults placed in homes for re-education and other institutions and about cases of violence and bullying among children and young adults in social care institutions.

205. The Committee recommends that the State party take all necessary measures to prevent acts of violence in homes for re-education and social care institutions. In accordance with the recommendation of the Committee against Torture (CAT/C/CR/32/3, para. 9(k)), the Committee urges the State party to increase the protection of children in social care institutions, *inter alia* by ensuring that violent acts are reported and investigated and providing adequate support and treatment, including psychological treatment to victims of such acts.

- Kyrgyzstan, CRC, CRC/C/143 (2004) 50 at paras. 278 and 279.

278. The Committee is concerned that persons below 18 allegedly continue to be subjected to torture and cruel treatment, in many cases when in police custody or awaiting trial. Access to legal counsel and/or medical services and communication with their families also seems limited for young persons in police custody. The Committee is also concerned that the complaint procedures for these abuses are not child-sensitive and have not proven to be efficient as no sanctions seem to have been applied.

279. The Committee recommends that the State party:

(a) Undertake all necessary measures to prevent acts of torture and inhuman or degrading treatment or punishment, in particular through training of the police forces;

(b) Take measures to investigate, prosecute and sanction those involved in committing acts of torture and inhuman or degrading treatment or punishment against children and young persons;

...

(d) Establish programmes for the rehabilitation and reintegration of the victims.

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- Angola, CRC, CRC/C/143 (2004) 78 at paras. 407 and 408.

407. The Committee expresses its deep concern at the re-emergence of the persecution of children accused of witchcraft and the very negative consequences of such accusations, including cruel, inhuman and degrading treatment, and even murder.

408. The Committee urges the State party to take immediate action to eliminate the mistreatment of children accused of witchcraft, including by prosecuting the perpetrators of this mistreatment and intensive education campaigns that involve local leaders.
- Albania, CRC, CRC/C/146 (2005) 19 at paras. 115, 116, 125 and 126.

115. The Committee notes article 25 of the Constitution and the general provisions of the Criminal Procedure Code, according to which torture and degrading treatment or punishment are prohibited. However, the Committee regrets the lack of relevant practical information in the report, and is concerned about allegations of ill-treatment and improper use of force, in particular against children, both by public officials and the police in pre-trial detention centres, in prisons and in other institutions in which children are in the care of the State. Furthermore, the Committee is concerned that these allegations have not been investigated promptly by an independent authority.

116. In light of article 37 (a) of the Convention the State party should take all necessary and effective steps to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence. The Committee further urges the State party to undertake adequate measures to ensure that an effective system is set up for filing complaints about acts of ill-treatment and that such acts receive an appropriate response through the judicial process, in order to avoid impunity for the perpetrators.

...

125. The Committee is concerned that corporal punishment remains lawful in the family, and continues to be used as a disciplinary method.

126. The Committee urges the State party to expressly prohibit by law all corporal punishment in the family. The State party is further encouraged to undertake awareness-raising campaigns and education programmes on non-violent forms of discipline, and to conduct research into the prevalence of corporal punishment of children in the family.
- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 188 and 189.

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188. While noting that the new Act of 16 June 2004 dealing with the reorganization of the State Socio-Educational Centre reduces to 10 days, instead of the previous 20 days, the maximum duration of solitary confinement as a disciplinary sanction for persons under 18 years of age, and provides the child with the possibility of appealing to the juvenile judge, the Committee is still deeply concerned at the use and length of this isolation and at the very harsh conditions depriving the child of almost all contact with the outside world and of any outdoor activity.

189. The Committee recommends that the State party develop and implement alternative disciplinary sanctions in order to avoid as much as possible the use of solitary confinement, to further reduce the length of this confinement and to improve its conditions, *inter alia*, by providing persons under 18 with access to an outdoor area for at least one hour a day and giving them access to some kind of recreational facilities...

...

- Belize, CRC, CRC/C/146 (2005) 59 at paras. 332 and 333.

332. While noting the awareness-raising campaigns and the promotion of alternative methods of discipline, the Committee reiterates its deep concern that corporal punishment is still frequently practised in the family, in schools and in other institutions, that domestic legislation does not prohibit the use of corporal punishment and that the provisions of the Criminal Code and the Education Act legitimize the use of it.

333. The Committee, reiterating its previous recommendation, urges the State party:

(a) To critically review its current legislation with a view to abolishing the use of force for the purpose of correction and to introduce new legislation prohibiting all forms of corporal punishment of children in the family and within all institutions, including schools and the alternative care system;

(b) To extend and strengthen public education and social mobilization campaigns on alternative non-violent forms of discipline and child-rearing, with the participation of children, in order to change public attitudes to corporal punishment and to strengthen its cooperation with the NGOs in this respect;

(c) To seek international technical assistance from, among others, UNICEF in this regard.

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- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 480, 481, 507 and 508.

480. The Committee deeply regrets that, under existing laws, persons below the age of 18 who have committed a crime can be subjected to corporal punishment and sentenced to various types of torture or other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, which are systematically imposed by judicial authorities and which the Committee considers to be totally incompatible with article 37 (a) and other provisions of the Convention.

481. In the light of the consideration of the Bill on the Establishment of Juvenile Courts, the Committee urges the State party to take all the necessary measures to ensure that persons who committed crimes while under 18 are not subjected to any form of corporal punishment and to suspend the imposition and the execution of sentences of amputation, flogging, stoning and other forms of cruel, inhuman or degrading treatment or punishment.

507. The Committee...deplors the information...that, despite the statement of the delegation made during the consideration of the second periodic report that in view of that bill, executions, torture and other cruel, inhuman or degrading treatment or punishment of persons for having committed crimes before the age of 18 have been suspended, such executions and ill-treatment have continued since the consideration by the Committee of the State party's initial report. The Committee remains concerned at the persisting poor quality of the rules and practices in the juvenile justice system, reflected, *inter alia*, in the lack of statistical data, the limited use of specialized juvenile courts and judges, the low age of criminal responsibility, the lack of adequate alternatives to custodial sentences, and the imposition of torture and other cruel or inhuman punishment and in particular of the death penalty.

508. The Committee...urges the State party, in particular:

...

(b) To suspend immediately the imposition and execution of all forms of torture and other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, for crimes committed by persons under 18;

...

- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 626 and 627.

626. The Committee is concerned at reported cases of police brutality against children in the State party.

627. The Committee recommends that the State party adopt measures to prevent and

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eliminate all kinds of institutional violence. It also recommends that the State party ensure that alleged cases of police brutality against children are duly investigated and that those responsible for such crimes are prosecuted.

- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 702, 703, 708, 709, 742, 743 and 745.

702. The Committee takes note that article 221 of the Child Rights Act prohibits corporal punishment in judicial settings, and that a ministerial note has been sent to schools notifying them of the prohibition of corporal punishment in schools. Nevertheless, in light of article 19 of the Convention, the Committee remains concerned that corporal punishment is still widely practised in the penal system as a sanction, as well as in the family, in schools and in other institutions. In particular, the Committee is concerned about:

- (a) Articles 9 and 11 (2) of the Children and Young Persons Law which provides for the sentencing of juvenile offenders to whipping and corporal punishment;
- (b) Article 18 of the Criminal Code which provides for whipping;
- (c) Article 55 of the Penal Code which provides for the use of physical corrective measures;
- (d) Sharia legal code to children prescribing penalties and corporal punishment such as flogging, whipping, stoning and amputation, which are sometimes applied to children; and
- (e) Legal provisions that tolerate, if not promote, corporal punishment at home, in particular article 55 (1) (a) of the Penal Code and article 295 of the Criminal Code.

703. The Committee recommends that the State party:

- (a) Abolish or amend all legislation prescribing corporal punishment as a penal sentence, in particular the Children and Young Persons Law;
- (b) Expressly prohibit corporal punishment by law in all settings, in particular in the family, schools and other institutions; and
- (c) Conduct awareness-raising campaigns to ensure that positive, participatory, non-violent forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially article 28, paragraph 2, as an alternative to corporal punishment at all levels of society.

...

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708. The Committee is deeply concerned about:

- (a) Traditional and discriminatory attitudes and behaviour towards women and children, contributing to violence, abuse, including sexual abuse, neglect, killing, torture and extortion;
- (b) Generally high level of acceptance of domestic violence among law enforcement officials and court personnel; and
- (c) Lack of adequate measures taken by the State party to prevent and combat violence, abuse and neglect against women and children.

709. The Committee urges the State party to strengthen considerably its efforts to prevent and combat violence in society, including violence against women and children, in the context of the family, as well as in schools and other environments. In this regard, the Committee recommends the State party to take the following specific actions:

- (a) Carry out public education campaigns about the negative consequences of violence and ill-treatment of children and promote positive, non-violent forms of conflict resolution and discipline, especially within the family and in the educational system and in institutions;
- (b) Take all legislative measures to prohibit all forms of physical and mental violence, including sexual abuse, against children in all contexts in society, as well as take effective measures for the prevention of violent acts committed within the family, in schools and by the police and other State agents, making sure that perpetrators of these violent acts are brought to justice, putting an end to the practice of impunity;
- (c) Give attention to addressing and overcoming sociocultural barriers, especially the submission and acceptance of maltreatment on the part of girls and women, which inhibit them from seeking assistance;
- (d) Provide care, recovery and reintegration for child victims of direct or indirect violence and ensuring that the child victim is not re-victimized in legal proceedings and that his/her privacy is protected;
- (e) Train parents, teachers, law enforcement officials, care workers, judges and health professionals in identification, reporting and management of ill-treatment cases, using a multidisciplinary approach;
- (f) Use as a guidance for further actions the recommendations of the Committee adopted on its days of general discussion (CRC/C/100, para. 688 and CRC/C/111, paras. 701-745); and

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(g) Seek assistance from, among others, UNICEF and WHO.

...

742. The Committee notes with appreciation the efforts made by the State party to reform the Juvenile Justice Administration (JIA), including the establishment of a National Working Group on Juvenile Justice Administration in 2002 and the introduction of the draft National Policy on Child Justice Administration in Nigeria for discussion. However, the Committee remains gravely concerned that the juvenile justice system in the State party, in particular, the sharia court system, does not conform to international norms and standards, in particular that:

...

(b) Juvenile offenders are frequently subjected to physical assaults by the police and custodial officers;

...

743. Despite the State party's claim that there are no discrepancies between the provisions of the Convention and the sharia laws with regard to the rights of children, the Committee remains deeply concerned by the sentencing of persons below 18 years to cruel, inhuman and degrading treatment such as stoning, flogging, whipping and amputation by sharia courts. The Committee is further concerned that under section 95 of the sharia Penal Code, persons aged 7 to 18 years can be subjected to the punishment of confinement in a reform institution, or 20 strokes of cane, or with fine, or both.

...

745. ...[T]he Committee urges the State party to, in particular:

...

(e) Amend, as a matter of urgency, the Child and Young Persons Act and the Criminal Code, as well as the sharia Penal Codes to abolish death penalty as well as cruel, inhuman and degrading treatment on juvenile offenders, and in the meantime take measures, as a matter of priority, to ensure that persons under 18 are not sentenced to torture, cruel, inhuman and degrading forms of sanction such as flogging and amputation by sharia courts;

...

(h) Enact an amendment to the Children and Young Persons Act, prohibiting all forms of corporal punishment in penal institutions;

...

- Saint Lucia, CRC, CRC/C/150 (2005) 10 at paras. 59 and 60.

59. The Committee is concerned at the fact that corporal punishment is a lawful way of disciplining children, both under the Children and Young Persons Act and the Education Act. The Committee is further concerned that corporal punishment is widely practised as a highly-favoured method of punishment.



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60. The Committee recommends that the State party:

(a) Amend its legislation to explicitly prohibit corporal punishment in the family, schools and institutions;

(b) Conduct awareness-raising campaigns to inform the public in general about the negative impact of corporal punishment on children and actively involve children and the media in the process;

(c) Ensure that positive, participatory, non-violent forms of discipline are administrated in a manner consistent with the Convention, in particular article 28(2) as an alternative to corporal punishment at all levels of society.

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 141, 142, 144, 145, 192 and 194.

141. The Committee notes that the Constitution of the Philippines prohibits torture and that the provisions of the Child and Youth Welfare Code (Presidential Decree No. 603) provide protection for children against torture and ill-treatment and that all hospitals, clinics, related institutions and private physicians are obliged to report in writing all cases of torture and ill-treatment of children. Nevertheless, the Committee is deeply concerned at a number of reported cases of torture, inhuman and degrading treatment of children, particularly for children in detention. The Committee reiterates its previous recommendation on prohibiting and criminalizing torture by law and it is of the view that existing legislation does not provide children with an adequate level of protection against torture and ill-treatment.

142. As regards torture and other cruel, inhuman or degrading treatment or punishment, the Committee urges the State party to review its legislation in order to provide children with better protection against torture and ill-treatment in the home and in all public and private institutions and to criminalize torture by law. The Committee recommends that the State party investigate and prosecute all cases of torture and ill-treatment of children, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected. The State party should ensure that child victims are provided with appropriate services for care, recovery and reintegration. The Committee recommends that the State party continue its efforts in training professionals working with and for children, including teachers, law enforcement officials, care providers, judges and health personnel in the identification, reporting and management of cases of ill-treatment.

...

144. While noting the State party's efforts to prohibit the use of corporal punishment in schools, prisons, institutions and forms of childcare by implementing various relevant

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provisions, the prevalence of corporal punishment in society gives cause for serious concern. The Committee is concerned that a provision for corporal punishment is not included in the Child and Youth Welfare Code and regrets that corporal punishment in the home is not explicitly prohibited by law.

145. In the light of its general comment No. 1 (2001) on the aims of education and the recommendations adopted by the Committee on its day of general discussion on violence against children within the family and in schools (see CRC/C/111), the Committee reiterates that corporal punishment is not compatible with the provisions of the Convention and it is inconsistent with the requirement of respect for the child's dignity, as specifically required by article 28, paragraph 2, of the Convention. Therefore, the Committee recommends that the State party prohibit by law all forms of corporal punishment in the home, in schools and in private and public institutions, in the juvenile justice system and the alternative care system.

...

192. The Committee is seriously alarmed at the high level of crime and the high number of persons below 18 years of age in detention in the State party, the persistent violations of the rights of children in conflict with the law, the alleged cases of torture, abuse, including sexual abuse and other forms of degrading treatment of persons below 18 years of age in detention, and the overall deficiencies in the administration of the Philippine juvenile justice system...

...

194. The Committee...recommends to the State party in particular that it:

...

(b) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions, and that persons below 18 years of age are not detained with adults;

...

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 328, 329, 369 and 370.

328. The Committee is concerned that corporal punishment and ill-treatment of children is prevalent in the family, in schools and in other institutions. The Committee is concerned about the provisions in the 1992 Children's Act and the 1963 Muluki Ain (Civil Code) which provide for corporal punishment in the home, in schools and in other institutions and forms of childcare, which is in clear contravention of article 19 of the Convention. The Committee underlines the importance of specific legal prohibition of traditional practices which are harmful to children by law.

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329. The Committee recommends that the State party:

- (a) Expressly prohibit corporal punishment and ill-treatment of children by law in the family, schools and other institutions;
- (b) Expedite the process of amending the relevant provision of the Children's Act and the 1963 Muluki Ain to ensure compliance with article 19 of the Convention;
- (c) Strengthen awareness-raising campaigns to inform parents, teachers and professionals working with children, particularly in institutions, as well as the public at large about the negative impact of corporal punishment and ill-treatment on children and actively involve children and the media in the process;
- (d) Ensure that positive, participatory, non-violent forms of discipline are administrated in a manner consistent with the child's human dignity and in conformity with the Convention, in particular article 28 (2) as an alternative to corporal punishment at all levels of society.

...

369. The Committee...notes that article 7 of the Children Act which protects children from cruel treatment and torture is not applicable to sexual abuse cases that do not necessarily reach the threshold of cruel treatment or torture. The Committee is also concerned at the low rate of prosecutions for perpetrators of sexual exploitation of children and that there is little in the way of public campaigns to educate the population on the laws governing sexual exploitation.

370. The Committee recommends that the State party, allocate resources as a matter of priority to:

- (a) Enact appropriate legislation that ensures protection from sexual abuse and exploitation for boys and girls under 18 years;

...

- (c) Take appropriate legislative measures and develop an effective and comprehensive policy addressing the sexual exploitation of children, including the factors that place children at risk of such exploitation, in particular children belonging to the *Bedi* and other lower castes;

...

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 624 and 625.

624. The Committee notes that torture and other cruel, inhuman or degrading treatment or

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punishment is prohibited in the State party. However, the Committee is concerned by allegations of instances of ill-treatment of children by law enforcement officials, especially in police establishments.

625. In the light of article 37 (a) of the Convention, the State party should take all necessary measures to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence.

- Costa Rica, CRC, CRC/C/150 (2005) 149 at paras. 698-701.

698. While taking note that a bill prohibiting and penalizing torture is being examined by the Legislative Assembly, the Committee is concerned at the fact that the use of torture, in particular on children, is still not formally prohibited and criminalized in the Penal Code.

699. The Committee reiterates its recommendation that the State party take all necessary measures to ensure the prohibition and penalization of torture in its legislation.

700. The Committee welcomes the efforts made by the State party to sensitize the different actors involved on the need to eradicate corporal punishment in the family, in school and in other institutions, and the fact that the Legislative Assembly is examining a bill prohibiting corporal punishment. The Committee remains however concerned at the fact that corporal punishment is still not explicitly prohibited in domestic law, as recommended by the Committee in its previous concluding observations, and still perceived as “sometimes necessary” by a large portion of the population (CRC/C/15/Add.117, para. 17).

701. The Committee reiterates its recommendation that the State party should incorporate the prohibition of corporal punishment in its legislation and continue to take appropriate measures to raise the awareness of the general public on the negative consequences of corporal punishment and other forms of violence in the upbringing of children, and to sensitize parents, teachers and others working with and for children about the alternative, non-violent means of discipline in the light of article 28 (2) of the Convention.

- Yemen, CRC, CRC/C/150 (2005) 161 at paras. 771-773.

771. The Committee is deeply concerned that corporal punishment is still used as a disciplinary measure in schools despite its official prohibition and is widely practised within the family and in other settings. The Committee is further concerned that corporal punishment, including flogging, is still lawful as a sentence for crime.

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772. The Committee recommends that the State party, as a matter of urgency:

- (a) Review existing legislation and explicitly prohibit all forms of corporal punishment;
- (b) Abolish by law the possibility of sentencing a child to any form of physical punishment;  
and
- (c) Undertake well-targeted public-awareness campaigns on the negative impact of corporal punishment on children, and provide teachers and parents with training on non-violent forms of discipline as an alternative to corporal punishment.

773. The Committee also reiterates its previous concluding recommendations (CRC/C/15/Add.102, paras. 21 and 34) and joins its voice to those made by the Human Rights Committee (CCPR/C/75/YEM, para. 16) and the Committee Against Torture (CAT/C/CR/31/4, para. 7).