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IV. CONCLUDING OBSERVATIONS

CERD

- Tunisia, CERD, A/49/18 (1994) 29 at para. 176.

Concern is expressed that the provisions of Organic Law No. 92-25 could be interpreted and applied in contradiction to the requirements of article 5(d)(ix) of the Convention concerning the right to freedom of peaceful assembly and association.

ICCPR

- Belgium, ICCPR, A/47/40 (1992) 94 at para. 430.

The State party should more adequately reflect in internal administrative practice the provisions of the Covenant which are not reflected in the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. arts. 25, 26 and 27), and ensure that the laws regarding restrictions on freedom of expression and assembly are compatible with those provided for in the Covenant.

- Republic of Korea, ICCPR, A/47/40 (1992) 113 at paras. 517 and 518.

Paragraph 517

Areas of concern relate to the requirement for advance authorization of assemblies and demonstrations.

Paragraph 518

The restrictions on the right to peaceful assembly should be reduced.

- Mongolia, ICCPR, A/47/40 (1992) 134 at para. 601.

Concern is expressed over the unclear position of the Covenant in Mongolian law. Measures undertaken so far to give effect to the Covenant have not gone far enough in providing judicial guarantees for each right recognized in the Covenant or toward ensuring that the Covenant can be invoked by individuals in a court of law. Similarly, the continuing applicability of old laws and procedures, which have not yet been revoked or replaced by new legislation providing guarantees and, in particular, establishing recourse procedures, is of concern. Additionally, the absence of adequate mechanisms to appeal against administrative decisions creates an uncertainty as to whether

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such fundamental rights as freedom of association, freedom of assembly and freedom of movement are fully enjoyed in actual practice.

- United Republic of Tanzania, ICCPR, A/48/40 vol. I (1993) 35 at paras. 185 and 188.

Paragraph 185

Areas of concern include the restriction of the right to peaceful assembly by the requirement of pre-permission by local authorities.

Paragraph 188

Steps should be taken to guarantee freedom of assembly without the requirement for pre-permission or such other restrictions as may jeopardize the freedom in question without necessarily being a threat to public order.

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at para. 262.

The extent of limitations on freedom of expression, assembly and association is of concern. In this connection, contrary to the provisions of articles 18 and 19 of the Covenant, members of certain political parties who did not agree with what the authorities believe to be Islamic thinking or who expressed opinions in opposition to official positions have been discriminated against. Self-censorship also seems to be widespread in the media and severe limitations appear to have been placed upon the exercise of freedom of assembly and of association.

- Dominican Republic, ICCPR, A/48/40 vol. I (1993) 95 at para. 462.

The inadequate protection of the rights of ethnic, religious and linguistic minorities is of concern. The right of peaceful assembly is apparently not adequately respected by the police.

- Egypt, ICCPR, A/48/40 vol. I (1993) 139 at para. 709.

The restrictive legal provisions existing in Egypt with regard to freedom of thought, conscience, religion, assembly and association are of concern.

- Bulgaria, ICCPR, A/48/40 vol. I (1993) 149 at para. 755.

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The remaining restrictions in national laws on human rights should be reviewed and brought into full conformity with the provisions of the Covenant as set forth in articles 18, 19 and 21.

- Mexico, ICCPR, A/49/40 vol. I (1994) 33 at para. 175.

The conditions in which the rights provided for in articles 21 and 22 of the Covenant are exercised, as evidenced by the severe repression of peaceful demonstrations by striking workers are of concern.

- Cameroon, ICCPR, A/49/40 vol. I (1994) 36 at para. 197.

The difficulties encountered by workers in exercising freely and peacefully their rights under articles 21 and 22 of the Covenant are regretted.

- Togo, ICCPR, A/49/40 vol. I (1994) 44 at para. 256.

The restrictive conditions in which the rights provided for in articles 21 and 22 of the Covenant are to be exercised are noted with concern. The severe repression of peaceful demonstrations during the period under review involving loss of life that has not been fully investigated is deplored.

- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at paras. 323 and 327.

Paragraph 323

The 1958 law regulating lawful assembly and requiring permits for public assemblies is not in compliance with article 21 of the Covenant. Restrictions on freedom of assembly must be limited to those which are deemed necessary, in conformity with the Covenant.

Paragraph 327

The legislative reforms presently under way should be expanded and accelerated in order to ensure that all relevant legislation, including the Criminal Code and administrative procedures, is in conformity with the requirements of the Covenant. In expanding the review, the general comments should be used as a guide to the application of the Covenant. The relevant laws and legislation concerning imprisonment for civil debt and restrictions on freedom of expression and freedom of assembly should be amended to conform with the requirements of the Covenant.

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- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at para. 458.

It is noted that the workers employed in the free trade zones, 80 per cent of whom are women, are unable, in practice, to enjoy fully the rights set forth in articles 21 and 22 of the Covenant.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICCPR, A/51/40 vol. I (1996) 13 at para. 71.

Immediate steps should be taken to ensure that the electoral system conforms with articles 21, 22 and 25 of the Covenant.

- Mauritius, ICCPR, A/51/40 vol. I (1996) 24 at para. 155.

It is noted with concern that notification must to be given seven days before any public meeting is held in order to obtain permission from the Commissioner of Police.

- Nigeria, ICCPR, A/51/40 vol. I (1996) 37 at para. 288.

The restrictions on freedom of association and assembly in law and in practice are of concern. The numerous reports received according to which members of unions were harassed and intimidated, sometimes even arrested and detained and that the dissolution of certain unions has been ordered by the Government, are also of concern.

- Bolivia, ICCPR, A/52/40 vol. I (1997) 35 at para. 214.

The curtailment of the rights of members of trade unions to the freedoms of association, assembly and expression, the high levels of violence against trade union members, the intimidation by police agents of persons taking part in peaceful demonstrations, and the high number of strikes that are deemed illegal are of concern.

- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at para. 296.

Special measures should be adopted, including protective measures, to ensure that members of various social sectors, particularly journalists, human rights activists, trade union and political leaders, teachers, members of indigenous populations and judges, are able to exercise their rights and freedoms, including freedom of expression, assembly and association, without intimidation of any

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sort.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at para. 356.

The maintenance of the total ban on public demonstrations, which continues to be justified by the Government on grounds of public safety and national security is of concern. This wholesale ban on demonstrations is not compatible with the right to freedom of assembly under article 21 and should be lifted as soon as possible.

- Iraq, ICCPR, A/53/40 vol. I (1998) 18 at para. 105.

The severe restrictions on the right to express opposition to or criticism of the Government or its policies are of concern. Concern is also expressed over the law which imposes life imprisonment and, in certain cases, death for insulting the President of the Republic. The law also imposes severe punishments for vaguely defined crimes which are open to wide interpretation by the authorities, such as writings detrimental to the President. Such restrictions on freedom of expression, which effectively prevent the discussion of ideas or the operation of political parties in opposition to the ruling Ba'ath party, constitute a violation of articles 6 and 19 of the Covenant and impede the implementation of articles 21 and 22 of the Covenant, which protect the rights to freedom of peaceful assembly and association. Therefore, penal laws and decrees which impose restrictions on the rights to freedom of expression, peaceful assembly and association should be amended so as to comply with articles 19, 21 and 22 of the Covenant.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 130.

The right of peaceful assembly should be respected by law enforcement officers.

- Belarus, ICCPR, A/53/40 vol. I (1998) 26 at paras. 145 and 154.

Paragraph 145

The numerous allegations of ill-treatment of persons by police and other law enforcement officials during peaceful demonstrations and on arrest and detention, and the high number of cases in which police and other security officials resort to the use of weapons are of concern. Noting that investigations of such abuses are not conducted by an independent mechanism and that the number of prosecutions and convictions in these cases is very low, concern is expressed that these phenomena may lead to impunity for members of the police and other security officials. Therefore, in order to combat impunity, steps should be taken to ensure that all allegations of ill-treatment and unlawful use

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of weapons by security and police officials be promptly and impartially investigated by an independent body, that the perpetrators be prosecuted and punished, and that the victims be compensated. Moreover, in accordance with paragraph 10 of the Committee's General Comment No. 20 (44) on article 7 of the Covenant, "enforcement personnel, (...) police officers and any other persons involved in the custody or treatment of any individual subjected to any form of arrest, detention or imprisonment must receive appropriate instruction and training" concerning the ban on torture and other cruel, inhuman or degrading treatment prohibited by article 7 and the observance of other human rights norms.

Paragraph 154

The severe restrictions imposed on the right to freedom of assembly are of concern. It is particularly noted that applications for permits to hold demonstrations are required to be submitted 15 days prior to the demonstration and are often denied by the authorities, and that Decree No. 5 of 5 March 1997 imposes strict limits on the organization and preparation of demonstrations, lays down rules to be observed by demonstrators, and bans the use of posters, banners or flags that "insult the honour and dignity of officials of State organs" or which "are aimed at damaging the State and public order and the rights and legal interests of citizens". These restrictions cannot be regarded as necessary in a democratic society to protect the values mentioned in article 21 of the Covenant. Therefore, the right of peaceful assembly should be fully protected and guaranteed in Belarus in law and in practice, limitations thereon should be strictly in compliance with article 21 of the Covenant, and Decree No. 5 of 5 March 1997 should be repealed or modified so as to be in compliance with that article.

- Cyprus, ICCPR, A/53/40 vol. I (1998) 33 at para. 194.

Conditions which the appropriate authorities may impose regarding the conduct of assemblies and processions upon receiving the required advance notification are of concern. The Committee also notes that the advance notice required to be given is too early and may unduly curtail freedom of assembly.

- Belgium, ICCPR, A/54/40 vol. I (1999) 26 at para. 89.

The distinction made in Belgian legislation between freedom of assembly and the right to demonstrate is excessively restrictive and should be abolished.

- Morocco, ICCPR, A/55/40 vol. I (2000) 24 at paras. 121 and 122.

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Paragraph 121

The breadth of the requirement of notification for assemblies is of concern and the receipt of notification of an assembly is often abused resulting in *de facto* limits on the right of assembly, contrary to article 21 of the Covenant.

Paragraph 122

The requirement of notification for assemblies should be restricted to outdoor assemblies and procedures adopted to ensure the issue of a receipt in all cases.

- Republic of Korea, ICCPR, A/55/40 vol. I (2000) 29 at para. 150.

The prohibition of all assemblies on major roads in the capital would appear to be overbroad. While some restrictions on assemblies on main roads in the interests of public order are permissible, article 21 of the Covenant requires that all such restrictions be in conformity with the law and be necessary in a democratic society. The absolute restrictions on the right to hold assemblies on main roads imposed by the State party do not meet these standards.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at para. 418.

Restrictions on the holding of public meetings and demonstrations, which exceed those permitted by article 21, and the lack of appeal procedures in case of denial of permission, are of concern.

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at para. 74(13).

Continuing attacks on human rights defenders, judges, complainants, representatives of human rights organizations and members of the media are of concern. In addition, persons who participate in peaceful demonstrations are reportedly subject to detention and penal action. Attacks against human rights defenders and persons participating in peaceful demonstrations should be promptly investigated and the perpetrators disciplined or punished as required.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at para. 81(25).

The restrictions on the holding of public meetings and demonstrations (articles 335 and 336 of the Penal Code) remain of concern. Such restrictions exceed those authorized by article 21.

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- The Netherlands (Antilles), ICCPR, A/56/40 vol. I (2001) 76 at para. 82(20).

The fact that the legal rules on the right of peaceful assembly contain a general requirement of prior permission from the local police chief is of concern. The State party should ensure that the right of peaceful assembly may be exercised by all in strict conformity with the guarantees of article 21 of the Covenant.

- Monaco, ICCPR, A/56/40 vol. I (2001) 89 at para. 84(17).

The special status of Monegasques, who are in a numerical minority in the Principality of Monaco, is noted, and attention is drawn to the distinction made in law between Monegasques and non-Monegasques, particularly in the area of employment and where the exercise of the freedoms of association and assembly is concerned (articles 21, 22 and 26 of the Covenant). The State party should ensure that such distinctions, which in certain cases and circumstances may justify differences in treatment based on objective and reasonable criteria, do not take the form of discrimination.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at para. 86(24).

Restrictions on public meetings and demonstrations, including possible abuse of the requirements of the laws governing assembly, are of concern.

ICESCR

- Sudan, ICESCR, E/2001/22 (2000) 57 at paras. 293 and 310.

Paragraph 293

It is noted with interest that since the fact-finding mission by the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the freedom of opinion and expression in 1999, there has been a broader degree of freedom of expression, press and assembly, as acknowledged by competent human rights sources, also facilitating the realization of economic, social and cultural rights under the Covenant.

Paragraph 310

Concern is expressed that some restrictions on the freedoms of religion, expression and association and peaceful assembly still exist, thereby hampering the enjoyment of economic, social and cultural rights by many Sudanese.

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CAT

- United Kingdom of Great Britain and Northern Ireland, CAT, A/51/44 (1996) 12 at para. 64.

The practice of the army in Northern Ireland of dispersing, with plastic bullets, what have been described by non-governmental organizations as peaceful demonstrations, is of concern.

- Poland, CAT, A/55/44 (2000) 21 at para. 95.

Legislative and administrative measures should be introduced to safeguard against excessive use of force by the police, in particular in connection with the supervision of public meetings and to safeguard against the persistence of abusive measures associated with the practice of so-called "*fala*" in the army.

- Belarus, CAT, A/56/44 (2001) 19 at para. 45.

The following is of concern:

The deterioration of the human rights situation in the State party, including persistent abrogations of the right to peaceful assembly, which creates obstacles for the full implementation of the Convention.

The numerous continuing allegations of torture and other cruel, inhuman and degrading punishment or treatment, committed by officials of the State party or with their acquiescence, particularly affecting political opponents of the government and peaceful demonstrators, and including disappearances, beatings, and other actions in breach of the Convention.

- Canada, CAT, A/56/44 (2001) 24 at para. 58.

Allegations of actions not in conformity with the Convention are of concern, including the inappropriate use of pepper spray and force by police authorities to break up demonstrations and restore order, notably with regard to the 1997 APEC demonstrations.

- Czech Republic, CAT, A/56/44 (2001) 46 at para. 113.

Allegations of the excessive use of force by law enforcement officials during and after demonstrations are of concern, particularly alleged instances of cruel, inhuman and degrading treatment of persons

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arrested and detained as a result of the demonstrations during the IMF/World Bank meeting in Prague in September 2000.

CRC

- Indonesia, CRC, CRC/C/34 (1994) 16 at para. 78.

The continuing pattern of violation of the right to freedom of assembly and the great number of complaints of ill-treatment of children attributed to the police, security or military personnel, in particular in situations of arrest and detention, are seriously disturbing. The failure of the authorities to take effective steps to punish those found guilty of such violations and to rehabilitate and compensate the victims of such acts is also disturbing.

- Spain, CRC, CRC/C/34 (1994) 27 at para. 148.

Legal amendments should be considered in order to ensure the right to participation of children, including the right to freedom of association and to freedom of peaceful assembly.

- Republic of Korea, CRC, CRC/C/50 (1996) 26 at para. 163.

Insufficient measures have been adopted, including those of a legal nature, to ensure effective implementation of the civil rights and fundamental freedoms of children (such as in relation to the right to a nationality, freedom of expression, thought, conscience and religion, as well as to freedom of association and peaceful assembly). The threats to national security invoked by the Government have hampered the enjoyment of such fundamental freedoms.

- Myanmar, CRC, CRC/C/62 (1997) 25 at paras. 150 and 171.

Paragraph 150

Deep concern is expressed with regard to the rights of children to freedom of speech, association and peaceful assembly.

Paragraph 171

All measures should be taken to fully guarantee the freedoms of association and speech as well as the right to peaceful assembly.

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- Australia, CRC, CRC/C/69 (1997) 16 at para. 98.

Concern is expressed over local legislation that allows the police to remove children and young people congregating, which is an infringement on children's civil rights, including the right to assembly.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 54 and 55.

Paragraph 54

Although the freedoms of expression and assembly are formally recognized in the Constitution, the exercise of these rights by children are restricted by vaguely worded limitation clauses (i.e. “in accordance with Islamic criteria”), which potentially exceed the permitted restrictions set out in paragraph 2 of articles 13 and 15 of the Convention. Concern is expressed about reports of incidents of threats and violence by vigilante groups, such as Ansari-Hezbollah, directed at persons seeking to service or to promote the exercise of these rights.

Paragraph 55

Clear criteria should be established to assess whether a given action or expression is in accordance with interpretations of Islamic texts, and appropriate and proportionate means should be considered to protect public morals while safeguarding the right of every child to freedom of expression and assembly.

- Ethiopia, CRC, CRC/C/103 (2001) 24 at para. 153.

Every effort should be made to ensure that the right of children and adolescents to express opinions, including through peaceful demonstrations, is respected and that appropriate follow-up is given to recommendations of the Children’s Forum.