

CRIMES AGAINST HUMANITY

III. CONCLUDING OBSERVATIONS, CONTINUED

CERD

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

165. The Committee commends the introduction of the concept of Crimes Against Humanity under article 607 *bis* of the Penal Code as well as the inclusion among the elements of such crimes of acts committed, *inter alia*, for racial or ethnic reasons...

- France, CERD, A/60/18 (2005) 26 at para. 114.

114. The Committee considers, as it has done in previous conclusions relating to the State party, that the prohibition of attempts to justify crimes against humanity, and of their denial, should not be limited to acts committed during the Second World War.

The Committee encourages the State party to criminalize attempts to deny war crimes and crimes against humanity as defined in the Statute of the International Criminal Court, and not only those committed during the Second World War.

ICCPR

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(8).

(8) The Committee has taken note of the efforts by the State party to encourage members of illegal armed groups to lay down their arms and rejoin civil society. In this context, mention has been made of the so-called “alternative penalties bill”, which seeks to offer certain legal benefits, such as the suspension of punishments involving imprisonment, to members of illegal armed groups who lay down their arms. The Committee is concerned that such benefits may be extended to persons responsible for war crimes or crimes against humanity.

The State party should ensure that the proposed legislation on alternative penalties does not grant impunity to persons who have committed war crimes or crimes against humanity (art. 2).

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at paras. 75(11) and 75(12).

(11) The Committee notes the State party’s public statements emphasizing its commitment

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to cooperate with the International Criminal Tribunal for the Former Yugoslavia (ICTY) in order to ensure that all persons suspected of grave human rights violations, including war crimes and crimes against humanity, are brought to trial. However, it remains concerned at the State party's repeated failure to fully cooperate with ICTY, including with regard to the arrest of indictees (art. 2).

The State party should extend to ICTY its full cooperation in all areas, including the investigation and prosecution of persons accused of having committed serious violations of international humanitarian law, and by apprehending and transferring those persons who have been indicted and remain at large, as well as granting ICTY full access to requested documents and potential witnesses.

(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).

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.

CAT

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

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

...

(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;

...

45. The Committee recommends that the State party:

...

(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;

...

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- Venezuela, CAT, A/58/44 (2002) 32 at paras. 76 and 79.

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:

...

(d) It requires offences concerning human rights violations and crimes against humanity to be heard in ordinary courts;

...

79. [The Committee]...also welcomes with satisfaction the ratification of the Rome Statute of the International Criminal Court in December 2000.

- Colombia, CAT, A/59/44 (2003) 33 at para. 68.

68. The Committee...expresses its concern at:

...

(d) The allegations and information indicating:

...

(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;

...

- Germany, CAT, A/59/44 (2004) 45 at para. 90.

90. The Committee welcomes:

...

(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;

...

- Argentina, CAT, A/60/44 (2004) 12 at para. 31.

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31. The Committee welcomes with satisfaction the efforts made by the State party to combat impunity in respect of crimes against humanity committed under the military dictatorship, and in particular:

(a) The promulgation of Act No. 25.779 in September 2003, declaring the “Due Obedience” and “Clean Slate” Acts absolutely null and void;

(b) The initiation of a significant number of cases in which such violations are being investigated;

(c) The repeal in 2003 of executive decree No. 1581/01, which required the automatic rejection of requests for extradition in cases involving serious and flagrant violations of human rights under the military dictatorship.