

EFFECTIVE REMEDIES - GENERAL

IV. CONCLUDING OBSERVATIONS

CERD

- Qatar, CERD, A/48/18 (1993) 29 at para. 99.

The view of the Government that the Shariah courts and the civil courts together offer sufficient remedies for any charges of racial discrimination is noted. Concern is expressed about the criteria by which a Shariah court will determine an appropriate punishment and the necessity of separate proceedings in the civil court for the victim to obtain compensation in accordance with article 6 of the Convention.

- Republic of Korea, CERD, A/48/18 (1993) 46 at para. 232.

Steps should be taken to rectify the omission of race as a ground for discrimination from national legislation. The State party should also give careful consideration to adopting measures to prevent discrimination and to providing for the punishment of discrimination in criminal law.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/48/18 (1993) 73 at paras. 414 and 421.

Paragraph 414

The absence of legislation prohibiting discrimination on racial grounds in Northern Ireland and the ensuing lack of adequate protection available to ethnic minorities including, in particular, travellers and persons of Chinese origin, is of concern.

Paragraph 421

Effective legislative and other practical measures should be taken with a view to preventing incidents of incitement to racial hatred and racially motivated attacks. In particular, the causes of such attacks should be more accurately analysed; current efforts to encourage the recruitment into the police of members of ethnic minorities should be reinforced; the activities of organizations of a racist nature should be prohibited; and the dissemination of ideas based on racial hatred declared punishable by law.

EFFECTIVE REMEDIES - GENERAL

- Germany, CERD, A/48/18 (1993) 81 at paras. 445 and 446.

Paragraph 445

Serious concern is expressed at the manifestations of xenophobia, anti-semitism, racial discrimination and racial violence that had recently occurred. It appears that those manifestations are increasing and that the police system has in many instances failed to provide effective protection to victims and potential victims of xenophobia and racial discrimination, as required by the Convention. All those who carry out functions in public and political life should in no way encourage sentiments of racism and xenophobia.

Paragraph 446

In view of the serious nature of the manifestations of xenophobia, racism and racial discrimination in the State party, practical measures should be strengthened with a view to preventing such manifestations, particularly acts of violence on an ethnic basis, and to punishing those who committed them. Measures should be taken, in that regard, against the organizations and groups involved.

See also:

- Spain, CERD, A/49/18 (1994) 72 at para. 501.

- Bosnia and Herzegovina, CERD, A/48/18 (1993) 87 at para. 471.

Those responsible for massive, gross and systematic human rights violations and crimes against international humanitarian law should be held responsible and prosecuted. In that connection, the Government is urged to assist efforts to arrest, bring to trial and punish all those responsible for crimes which would be covered by the terms of reference of the International Tribunal established pursuant to Security Council resolution 808 (1993).

- Croatia, CERD, A/48/18 (1993) 90 at para. 506.

The State party is urged to undertake all measures at its disposal to bring an end to the massive, gross and systematic human rights violations occurring in those areas of Bosnia and Herzegovina controlled by the State party. The State party is urged to assist efforts to arrest, bring to trial and punish all those responsible for crimes which would be covered by the terms of reference of the International Tribunal established pursuant to Security Council resolution 808 (1993).

See also:

- Yugoslavia (Serbia and Montenegro), CERD, A/48/18 (1993) 95 at para. 545.

EFFECTIVE REMEDIES - GENERAL

- Yugoslavia (Serbia and Montenegro), CERD, A/48/18 (1993) 95 at paras. 539 and 543.

Paragraph 539

Reports indicating that members of national minorities in Kosovo, as well as in Vojvodina and Sandzak, were subject to a campaign of terror carried out by paramilitary organizations with the aim of intimidating or forcing them into abandoning their homes are of deep concern. It is noted that the Government also referred to such practices directed against Serbs in Kosovo. Particular concern is expressed at the fact that the State party did not ensure that public security and law enforcement officials took steps effectively to prohibit such criminal activities, punish the perpetrators and compensate the victims, as required under article 6 of the Convention.

Paragraph 543

In conformity with articles 2 and 4 of the Convention, the Government should prohibit racial discrimination and should urgently take vigorous steps to ban racist activities and propaganda. In that connection it is vital that paramilitary groups be disbanded, reports of ethnically motivated attacks, including allegations of arbitrary arrests, disappearance and torture, be promptly investigated and those responsible punished. The importance of providing proper training in human rights norms for law enforcement officials in accordance with General Recommendation XIII is emphasized as is the ensuring of equitable representation among their ranks of national minorities.

- France, CERD, A/49/18 (1994) 20 at para. 148.

Concern is expressed lest the law on computer technology, files and freedoms impair the Government's readiness to ascertain whether victims of racial discrimination lack effective protection and remedies.

- Sweden, CERD, A/49/18 (1994) 30 at para. 198.

Concern is expressed about the inadequacy of measures taken by the Government to prevent occurrences of manifestations of xenophobia and racism and to protect effectively potential victims of such manifestations, particularly those from immigrant groups.

- Morocco, CERD, A/49/18 (1994) 34 at para. 226.

It is of concern that the State party has not implemented the provisions contained in article 4 of the Convention, which call for the adoption of specific penal legislation. In that connection, it is recalled that where the criminal law contains specific provisions covering racist acts, a State is better placed to deal with such phenomena.

EFFECTIVE REMEDIES - GENERAL

- Norway, CERD, A/49/18 (1994) 37 at para. 255.

The exercise of discretion not to invoke criminal proceedings may result in an absence of effective remedies.

- Canada, CERD, A/49/18 (1994) 47 at paras. 328 and 329.

Paragraph 328

Legal provisions at both the federal and provincial levels concerning human rights should be harmonized to avoid any possible difference in treatment. Equality in access to and treatment by courts should be fully guaranteed. The Employment Equity Act should be extended to wider categories of workers, including federal civil servants, to improve the effectiveness of remedies in this field.

Paragraph 329

Measures should be undertaken to ban racist organizations, to improve the employment and health situation of aboriginal people, to speed up negotiations on aboriginal land claims, to enforce remedies existing under the law, and to protect immigrants, especially those of African and Asian origin, against discrimination.

- Sudan, CERD, A/49/18 (1994) 68 at paras. 473 and 477.

Paragraph 473

Concern is expressed about the effective curtailment of police powers and about the independence of the judiciary, including conditions pertaining to the appointment, training and dismissal of magistrates.

Paragraph 477

Underlining the crucial area of the administration of justice with regard to eliminating racial discrimination, it is recommended that police power be curtailed and that judges decide on the legality of detainment within reasonable time after arrest or taking into custody of a suspect. The State is obligated to ensure that law enforcement officials are fully responsible for adhering to the requirements of the Convention and that excesses of the security forces are punished.

- Spain, CERD, A/49/18 (1994) 72 at para. 509.

The State party should provide detailed information on cases of complaints of racial discrimination

EFFECTIVE REMEDIES - GENERAL

brought before the courts and on remedies made available to victims of racism and xenophobia, in accordance with the provisions of article 6 of the Convention. Special attention should be given to the training and sensitization of law enforcement officials.

- Australia, CERD, A/49/18 (1994) 78 at paras. 544 and 548.

Paragraph 544

Legal proceedings for the recognition of native title and for responding to land claims have been protracted. The necessity for claimants to prove that they have maintained their connection with the land and that their title has not been extinguished can be an exigent condition. That persons who identify as Aboriginal but whose ancestors are predominantly non-Aboriginal may not qualify as Aboriginal with respect to land rights may become a further matter of concern. Only a very small percentage of the Aboriginal population will benefit under the Native Title Act.

Paragraph 548

Measures to remedy any discrimination suffered by members of non-English-speaking minorities and Aboriginals should be strengthened in the fields of the administration of justice, education, employment, housing and health services and in promoting the participation of all in the conduct of political affairs.

- Trinidad and Tobago, CERD, A/50/18 (1995) 21 at para. 48.

Publicity should be given to make the public aware of the right to seek from national tribunals just and adequate reparation for any damage suffered as a result of racial discrimination.

- Croatia, CERD, A/50/18 (1994) 36 at paras. 170 and 176.

Paragraph 170

It is noted that the administration of the criminal justice system fails to adequately address crimes of an ethnic nature. Thus there has been a failure to prosecute alleged perpetrators of crimes directed at ethnic Serbs and it is reliably reported that a number of Croatian Serbs have been unfairly prosecuted or excessively punished for alleged crimes against non-Serbs.

Paragraph 176

The State party should ensure that it administers justice in a manner consistent with its obligations under the Convention and that it speedily prosecutes all alleged offences which appear to be directed against persons because of their racial, ethnic or religious origins. The State party should identify any miscarriages of justice which may have been motivated by the ethnic origin of the defendants and

EFFECTIVE REMEDIES - GENERAL

should redress any injustice done.

- Peru, CERD, A/50/18 (1995) 41 at paras. 201 and 203.

Paragraph 201

As regards the implementation of article 6, concern is expressed at allegations of excessive use of violence committed in the past towards the rural population (most of whom are of indigenous descent) by the army and various armed groups as a reaction to terrorism. The role of military courts in this respect needs further explanation and assessment. Concern is expressed over whether impunity is not given too much weight in respect of the prosecution of human rights violations by military and paramilitary groups. Concern is also expressed regarding the adequacy of publicity given to the right of individuals claiming to be victims of racial discrimination to appeal to the Committee under article 14 of the Convention.

Paragraph 203

Special efforts should be made within the armed forces to terminate any unlawful violence towards civilians, including persons belonging to indigenous communities, and to ensure that perpetrators of human rights violations are brought to justice.

- Bosnia and Herzegovina, CERD, A/50/18 (1995) 46 at paras. 223 and 224.

Paragraph 223

Persons responsible for massive, gross and systematic human rights violations as well as for crimes against international humanitarian law should be held responsible and prosecuted on the national or the international level.

Paragraph 224

The continuing and persistent violations of basic principles of international law and international obligations deriving therefrom, including basic principles underlying the International Convention on the Elimination of All Forms of Racial Discrimination, call for the application of enforcement measures by the Security Council in connection with the situation in Bosnia and Herzegovina.

- Yugoslavia (Serbia and Montenegro), CERD, A/50/18 (1995) 48 at paras. 238 and 245.

Paragraph 238

EFFECTIVE REMEDIES - GENERAL

Ethnic discrimination against groups, including the Muslim community of Sandjak and the Bulgarian community in Serbia, is of concern. Note is taken of recent acts of discrimination perpetrated against these groups and of the failure of the State party to bring such actions to an end or to have them investigated and prosecuted.

Paragraph 245

It is insisted that all perpetrators of violations of the Convention be brought to justice. The State party is further called upon to cooperate fully with the International Criminal Tribunal for the Former Yugoslavia.

- Romania, CERD, A/50/18 (1995) 53 at para. 272.

While the State party's new legal framework prohibits manifestations of racism, including acts of violence, the propagation of racist speech, and discriminatory employment practices, the extent to which the legal prohibition of such acts is translated into effective prohibition is unclear. Once such acts occur, it is not evident what remedies are available to victims and whether and how it is ensured that the guilty parties are prosecuted in an adequate and timely manner. It is noted in this connection that with regard to the violence on 20 September 1993, which resulted in the death of three members of the Roma and the destruction of the homes of 170 others, the victims have yet to receive compensation or have their homes reconstructed.

- Guatemala, CERD, A/50/18 (1995) 58 at paras. 304, 308 and 309.

Paragraph 304

The statement that no form of racial discrimination is practised against persons, groups of persons or institutions is not accepted. *De facto* racial discrimination persists in Guatemala against the indigenous communities representing the majority of the Guatemalan people. It is noted with concern that no legal protection is offered in practice against such discrimination.

Paragraph 308

The failure to investigate the numerous excesses by elements of the military and PACs (civilian self-defence patrols) against indigenous peoples (including summary executions and other cruel, inhuman or degrading treatment, threats and forcible recruitment) and the failure to prosecute the perpetrators is particularly deplored.

Paragraph 309

The lack of awareness of members of indigenous communities about recourse procedures, the shortage of practical facilities for them to use their own language in court procedures and the

EFFECTIVE REMEDIES - GENERAL

weaknesses of the judicial system are regretted, as is the resulting relative impunity for perpetrators of such violations.

- Mexico, CERD, A/50/18 (1995) 66 at para. 395.

The State party should ensure that violations of indigenous peoples' human rights are investigated and that the victims receive compensation.

- El Salvador, CERD, A/50/18 (1995) 83 at para. 493.

The State party should actively foster a legal culture that effectively protects human rights by disseminating as widely as possible information on the international human rights treaties to which it is party among the authorities responsible for the protection of human rights as well as among the general public.

- Nigeria, CERD, A/50/18 (1995) 101 at paras. 627, 632 and 634.

Paragraph 627

Particular concern is expressed that Decree 12, which provides that "no act of the federal military government may be questioned henceforth in a court of law" and which ousts "courts of jurisdiction", can adversely affect proceedings invoking protection against racial discrimination.

Paragraph 632

The State party should investigate situations of ethnic disorder and the causes thereof, including any possible unlawful orders, with a view to taking the necessary remedial measures in accordance with the Convention and to ensuring that no one can act with impunity in these circumstances.

Paragraph 634

The Government should review the effectiveness of the recourse measures which should be available to all persons within its jurisdiction in accordance with article 6.

- Chad, CERD, A/50/18 (1995) 106 at para. 658.

Concern is expressed over the paralysis of the judiciary, associated with the lack of resources allocated to the courts, the inadequate training given to judges and political interference.

EFFECTIVE REMEDIES - GENERAL

- Denmark, CERD, A/51/18 (1996) 17 at paras. 70 and 78.

Paragraph 70

It is noted with concern that only three convictions have been registered in the past six years against members of neo-Nazi groups, although new instructions have been issued to prosecutors.

Paragraph 78

The provisions of the Convention should be more widely disseminated, particularly among minority groups, government officials, employers and trade unions. The public should be better informed about the remedy available under article 14 of the Convention.

See also:

- Hungary, CERD, A/51/18 (1996) 22 at para. 129.

- Hungary, CERD, A/51/18 (1996) 22 at para. 116.

Grave concern is expressed at the persistence of expressions of racial hatred and acts of violence, particularly those by neo-Nazi skinheads and others, towards persons belonging to minorities, especially Gypsies, Jews and people of African or Asian origin. Alarm is expressed that the Government has not been sufficiently active in effectively countering incidents of racial violence. In this regard, concern is expressed that the number of charges and convictions, including against neo-Nazi skinheads and others, is low relative to the number of abuses reported.

- Russian Federation, CERD, A/51/18 (1996) 25 at paras. 148, 152, 153 and 158.

Paragraph 148

Special attention should be paid to the minority and indigenous groups living in the northern territories by taking appropriate and effective measures to promote and protect their rights, especially the rights to use and exploit the land where they are living and to live in their own cultural environment.

Paragraph 152

The State Party should effectively enhance protection against any acts of racial discrimination through the competent national courts, in accordance with article 6 of the Convention, by strengthening the court system, the independence of the judiciary and the confidence of the population therein. The training of judges, lawyers, magistrates, law enforcement personnel and the military in human rights is also recommended.

EFFECTIVE REMEDIES - GENERAL

Paragraph 153

It is strongly recommended that the State Party urgently take all measures to restore peace in Chechnya and to ensure full protection of human rights in the region. It is also strongly recommended that the Government take all steps to ensure the full respect of fundamental human rights in the region, without discrimination. Persons responsible for massive, gross and systematic human rights violations and gross violations of international humanitarian law should be held responsible and prosecuted.

Paragraph 158

The accepted procedure of individual communications under article 14 of the Convention should be made widely known in the country.

- Finland, CERD, A/51/18 (1996) 29 at para. 176.

It is noted that victims of racial discrimination must overcome significant obstacles in order to obtain adequate judicial remedies.

- Spain, CERD, A/51/18 (1996) 32 at para. 212.

Doubts were expressed as to whether victims of racial discrimination have effective remedies at their disposal for seeking just and adequate reparation from competent tribunals.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/51/18 (1996) 35 at paras. 229 and 242.

Paragraph 229

The legal framework prohibiting racial discrimination is weakened by the non-incorporation of the Convention in domestic legislation, the absence of a bill of rights espousing the principle of equality before the law and non-discrimination, and the lack of recourse of individuals to petition an international body such as the Committee. In addition, concern is expressed that the laws relevant to the implementation of the Convention do not appear to be uniformly applied throughout the territory of the United Kingdom; specifically, the Race Relations Act does not extend to Northern Ireland and some provisions of the Criminal Justice Act do not apply to Scotland.

Paragraph 242

With respect to articles 5 and 6, the adequacy of legal aid available to alleged victims of racial discrimination should be reviewed and all complaints of police brutality should be vigorously and

EFFECTIVE REMEDIES - GENERAL

independently investigated and the perpetrators punished. Investigations into deaths in custody should be carried out expeditiously by independent inquiry mechanisms. Comprehensive, action-oriented studies should be undertaken to ascertain the reasons behind the low participation of persons belonging to ethnic minority groups in elections, both as voters and as candidates for public office, the reason for their low representation in the police and armed forces, and the reason for their disproportionately high level of unemployment.

- Bolivia, CERD, A/51/18 (1996) 41 at para. 276.

Deep concern is expressed over the lack of legislative provisions classifying as an offence punishable by law the dissemination of ideas based on racial superiority or hatred, acts of violence or incitement to violence against any race or group of persons of another colour or ethnic origin and the provision of assistance to racist activities. Attention is drawn to the fact that failure to take such action as required under article 4 impairs the implementation of article 6 on the right to effective protection and remedy.

- Brazil, CERD, A/51/18 (1996) 45 at para. 308.

The Government should put more vigorously into practice its determination to defend the fundamental rights of indigenous people, blacks, mestizos and members of other vulnerable groups, who are regularly the victims of serious intimidation and violence, sometimes leading to their deaths. It is hoped that the authorities will systematically prosecute those guilty of such crimes, whether they are members of private militias or State officials, and will take effective preventive measures, especially through training for the members of the military police. In addition, the State Party should ensure that the victims of such acts receive compensation and are rehabilitated.

- India, CERD, A/51/18 (1996) 51 at para. 370.

The State party should adopt legal provisions making it easier for individuals to seek from the courts just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination, including acts of discrimination based on belonging to a caste or a tribe.

- Zaire, CERD, A/51/18 (1996) 70 at para. 534.

The importance of specific legal provisions providing for effective protection and remedies against

EFFECTIVE REMEDIES - GENERAL

acts of racial discrimination and for the right of individuals to seek adequate reparation for any damage suffered as a result of such discrimination, as provided for in article 6 of the Convention, is stressed.

- Guatemala, CERD, A/52/18 (1997) 14 at paras. 79, 89 and 90.

Paragraph 79

Concern is expressed that the indigenous population does not enjoy effective protection and remedies in the national courts from violations of human rights and fundamental freedoms owing to the lack of interpreters and the insufficient availability of public legal defenders.

Paragraph 89

The State party should provide for access to the judiciary by all members of the population, in particular by furnishing adequate interpretation services for indigenous people at all levels of judicial proceedings.

Paragraph 90

The State party should take measures to end the impunity of State officials who act illegally and to guarantee the availability of remedies and due process for all members of the population.

- Luxembourg, CERD, A/52/18 (1997) 22 at para. 140.

The Penal Code should be amended with a view to introducing stronger penalties for acts of slander and/or defamation of a racial character.

- Germany, CERD, A/52/18 (1997) 25 at para. 157.

The prohibition of the production and distribution of neo-Nazi literature and the severe punishment of persons found guilty of incitement to racial hatred have no doubt contributed to improvements in the State party.

- Iceland, CERD, A/52/18 (1997) 35 at para. 249.

Further publicity should be given to the State party's declaration under article 14, so as to make that recourse more widely available.

EFFECTIVE REMEDIES - GENERAL

- Bulgaria, CERD, A/52/18 (1997) 39 at paras. 283 and 294.

Paragraph 283

Insufficient measures have been taken to guarantee the rights and freedoms of citizens and their integration into society regardless of race, nationality or ethnic origin. It is alarming that the State party has not been sufficiently active in effectively countering incidents of racial violence against members of minority groups and that the police and prosecutors seem to have failed to investigate acts of violence promptly and effectively. In addition, concern is expressed at information that the number of charges and convictions is low relative to the number of abuses reported. Concern is also expressed that acts of propagating and instigating racial and nationalistic hatred and the perpetrators of such crimes against ethnic minorities are not considered to pose a significant danger to the public order.

Paragraph 294

The public should be better informed of the procedure available under article 14 of the Convention. The declaration concerning article 14 should be made more widely available to the public in the various languages spoken in the country.

- Mexico, CERD, A/52/18 (1997) 42 at para. 316.

It is hoped that the State party will continue its efforts to improve the effectiveness of measures and programmes designed to ensure that members of all population groups, especially the 56 indigenous groups, fully enjoy their political, economic, social and cultural rights. The State party should devote due attention to the legislative changes required as well as to the development of programmes to foster awareness of human rights, particularly among representatives of the State.

- Algeria, CERD, A/52/18 (1997) 52 at para. 403.

The State party should launch an effective information campaign in order to inform and educate all sectors of society on the provisions of the Convention, and inform them of the remedy available under article 14 of the Convention.

- Philippines, CERD, A/52/18 (1997) 55 at paras. 426 and 434.

Paragraph 426

EFFECTIVE REMEDIES - GENERAL

With respect to article 6 of the Convention, there is concern at the lack of legislative provisions to implement the right to just and adequate reparation or satisfaction for any damage suffered as a result of acts of racial discrimination. Moreover, the absence of complaints against acts of racial discrimination to the courts raises doubts as to the extent of the publicity given to and the effectiveness of available remedies for victims of racial discrimination.

Paragraph 434

The State party should ensure protection against any acts of racial discrimination through the competent courts, in accordance with article 6 of the Convention, by, *inter alia*, strengthening the court system, the independence of the judiciary and the confidence of the population therein. The right to seek just and adequate reparation for victims of acts of racial discrimination should be fully guaranteed under the law and in practice.

See also:

- Burundi, CERD, A/52/18 (1997) 73 at paras. 579 and 589.

- Sweden, CERD, A/52/18 (1997) 65 at para. 510.

Further action should be taken to ensure that the provisions of the Convention are more widely disseminated among the Roma, the Sami and "Tornedal Finns", immigrant associations and other ethnic groups, as well as among government officials, employers and trade unions. The public should also be better informed about available recourse under article 14 of the Convention.

- Argentina, CERD, A/52/18 (1997) 69 at para. 555.

The State party should take all measures within its power to expedite the ongoing proceedings in connection with the 1992 and 1994 anti-Semitic attacks and attention is drawn to articles 5 (a) and 6 of the Convention in this regard.

- Norway, CERD, A/52/18 (1997) 77 at para. 612.

Competent authorities should maintain a comprehensive record of all racist acts or incidents, and should take the necessary measures to facilitate and ensure criminal proceedings whenever appropriate.

- Israel, CERD, A/53/18 (1998) 30 at para. 81.

EFFECTIVE REMEDIES - GENERAL

When anyone makes threats in public against the security of persons of another ethnic origin, criminal proceedings must be initiated with due diligence and expedition. The State party should give this priority attention.

- Czech Republic, CERD, A/53/18 (1998) 35 at para. 119.

Concern is expressed over the fact that the number of charges and convictions, including those of skinheads, is low relative to the number of abuses reported. It is also noted with concern that perpetrators of racial crime are often lightly punished and that, in a number of cases, prosecutors have been reluctant to identify a racial motive. Moreover, concern is raised about judicial effectiveness in respect of long proceedings and slow investigations of racial crimes.

- Ukraine, CERD, A/53/18 (1998) 39 at para. 155.

The State party should undertake awareness-raising campaigns on the use of judicial remedies against racism, including the procedure provided for in article 14 of the Convention.

- Yugoslavia, CERD, A/53/18 (1998) 45 at para. 209.

A solution for Kosovo and Metohija should include a status of the highest level of autonomy for this part of the State party as a means for everyone to enjoy their human rights and in particular to eliminate all forms of racial discrimination.

- Croatia, CERD, A/53/18 (1998) 59 at paras. 317 and 323.

Paragraph 317

Concern is expressed at the continuing reports of the failure of the criminal justice system to adequately deal with all crimes of an ethnic nature and the subsequent tendency to fail to prosecute alleged perpetrators of crimes directed at ethnic Serbs, whereas there are reports that Croatian Serbs have been unfairly prosecuted or excessively punished when allegations of illegal activity directed at non-Serbs have been brought.

Paragraph 323

The State party should take measures to ensure the prosecution of persons allegedly responsible for having committed racially motivated crimes, regardless of the racial, ethnic or religious origin of the perpetrator or the victim.

EFFECTIVE REMEDIES - GENERAL

- Cyprus, CERD, A/53/18 (1998) 62 at para. 343.

Emphasizing the role of the justice system in the elimination of racial discrimination, the State party should consider measures for improving awareness of the Convention and associated legal and administrative remedies. Lawyers and administrators should be supplied with information on the Convention and on available remedies.

- Nepal, CERD, A/53/18 (1998) 73 at para. 431.

With regard to the implementation of article 6 of the Convention, concern is expressed at the lack of clarity about the jurisdiction of the Supreme Court *vis-à-vis* lower courts in cases of racial discrimination, and at the fact that members of the public may not be sufficiently aware of the protections against racial discrimination provided by the Convention and by local remedies.

- Austria, CERD, A/54/18 (1999) 13 at para. 42.

The State party should consider providing education and training on racial tolerance and human rights issues to law enforcement officials and police officers, in accordance with article 7 of the Convention. The State party should review the adequacy of its measures for investigating allegations of police brutality and abuse of office.

- Republic of Korea, CERD, A/54/18 (1999) 14 at para. 64.

The State party should provide legal aid to victims of acts of racial discrimination and facilitate access to recourse procedures by vulnerable groups.

- Italy, CERD, A/54/18 (1999) 19 at para. 124.

Concern is expressed about the continuation of incidents of racial intolerance, including attacks against foreigners of African origin and against Roma people, which are sometimes not recognized by the authorities as having a racial motivation or are not prosecuted.

- Peru, CERD, A/54/18 (1999) 21 at para. 157.

Legislation prohibiting the owners of establishments open to the public from screening their clients

EFFECTIVE REMEDIES - GENERAL

on racial grounds is noted. It is regretted however, that this prohibition is not yet accompanied by any form of penalty.

- Costa Rica, CERD, A/54/18 (1999) 24 at para. 191.

Concern is expressed that the financial penalties for racial segregation with regard to the admission of people of different races to public or private places do not constitute a sufficiently effective measure to prevent, prohibit and eradicate all practices of racial segregation, as required by article 3 of the Convention.

- Haiti, CERD, A/54/18 (1999) 28 at para. 259.

The absence of complaints and legal action by victims of racism may possibly be an indicator of a lack of awareness of the existence of available legal remedies in cases of racial discrimination. Members of the public may not be sufficiently aware of the protection against racial discrimination provided for by the Convention.

See also:

- Romania, CERD, A/54/18 (1999) 30 at para. 284.
- Guinea, CERD, A/54/18 (1999) 48 at para. 535.

- Islamic Republic of Iran, CERD, A/54/18 (1999) 32 at para. 308.

The State party should ensure that seminars, training courses and workshops on human rights include teachings about the Convention and should give due attention to the concluding observations of the Committee and the relevant national legislation, in particular relating to availability of domestic remedies.

- Chile, CERD, A/54/18, (1999) 37 at para. 377.

Having recognized its part in the discrimination experienced by the indigenous population, the State party should consider the issue of a formal apology, as well as ways to ensure compensation to all those concerned, a policy which, *inter alia*, will significantly contribute to the process of reconciliation in the society as a whole.

EFFECTIVE REMEDIES - GENERAL

- Uruguay, CERD, A/54/18, (1999) 41 at paras. 425 and 431.

Paragraph 425

Concern is expressed about the effective access to protection and remedies against acts of racial discrimination against, in particular, the Afro-Uruguayan and indigenous communities.

Paragraph 431

The State party should make additional efforts to facilitate equal access to the courts and administrative bodies for persons belonging to the Afro-Uruguayan and indigenous communities, in order to ensure equality of all persons.

- Azerbaijan, CERD, A/54/18 (1999) 46 at paras. 493 and 499.

Paragraph 493

The absence of complaints by victims of racial discrimination may indicate ignorance of or a lack of confidence in the available legal remedies.

Paragraph 499

The State party should facilitate equal access to the courts and administrative bodies for all persons belonging to ethnic minorities and provide information on the right to seek just and adequate reparation for any damage suffered as a result of racial discrimination.

- Dominican Republic, CERD, A/54/18 (1999) 47 at para. 515.

The State party should address the requirements of article 6 of the Convention by facilitating access to the courts and other competent institutions for victims of racial discrimination and ensuring that the perpetrators of racist acts are brought to trial and the victims obtain adequate reparation or satisfaction.

- Denmark, CERD, A/55/18 (2000) 22 at paras. 64, 66 and 70.

Paragraph 64

In light of article 4 of the Convention, activities of organizations which promote racial hatred and discrimination are of concern, especially the influence of Radio Oasen. Radio Oasen is owned by a neo-Nazi association whose licence was renewed by the Ministry of Culture and which receives financial support from the Government. It is recommended that the State party declare illegal and prohibit any organization which promotes and incites racial discrimination. Attention is called to General Recommendation No. XV in this regard.

EFFECTIVE REMEDIES - GENERAL

Paragraph 66

It is noted that some individuals have been convicted for violating section 266 (b) of the Criminal Code. It is suggested that sanctions pronounced under the Criminal Code be commensurate with the nature of the related crime.

Paragraph 70

The public should be better informed about the remedy available under article 14 of the Convention.

- France, CERD, A/55/18 (2000) 26 at paras. 103 and 105.

Paragraph 103

With regard to article 6 of the Convention, it is recommended that the State party reinforce the effectiveness of the remedies available to victims of racial discrimination.

Paragraph 105

Concern is expressed that the remedies available under article 14 of the Convention may not be sufficiently well known.

- Lesotho, CERD, A/55/18 (2000) 28 at para. 114.

Increasing expressions of xenophobia resulting in acts of racial discrimination are of concern. The absence of a comprehensive legislative framework prohibiting and penalizing such acts is also of concern. Taking note of the State party's intentions to review legislation in this respect, the State party is encouraged to establish appropriate and effective remedies and recourse mechanisms and to implement fully all its obligations under articles 2, 4 and 6 of the Convention.

- Malta, CERD, A/55/18 (2000) 29 at paras. 125, 126 and 129-131.

Paragraph 125

The fact that article 4 of the Convention is not fully covered by legislation is of concern. The State party should take into account all aspects of article 4 in the elaboration of the new legislation and to review its declaration in relation to this article, made upon ratification of the Convention.

Paragraph 126

Although only a few cases of offences of a racial nature are reported, it is recommended that the State party investigate them carefully and take steps to prevent such incidents.

EFFECTIVE REMEDIES - GENERAL

Paragraph 129

Concern is expressed that the Employment Commission of Malta is empowered to consider only allegations of discrimination based on political opinion. The State party should consider expanding the scope of the competence of the Commission to cover all aspects of racial discrimination.

Paragraph 130

The State party is encouraged to increase its efforts in disseminating information about the duties and responsibilities of the Ombudsman, as well as about the procedure for launching complaints concerning racial discrimination.

Paragraph 131

It is noted with concern that officers found to have treated persons in a discriminatory manner in the course of their duties are subjected to disciplinary action only. The State party should take the necessary measures to ensure that criminal charges are brought against police officers for acts violating the provisions of the Convention.

- Rwanda, CERD, A/55/18 (2000) 31 at paras. 144, 152 and 153.

Paragraph 144

Concern remains that impunity prevails, notably in some cases involving unlawful acts committed by members of the security forces. Impunity should continue to be addressed through the judicial process. The State party is urged to make additional efforts to respond adequately to and prevent unlawful acts committed by members of the military or civilian authorities.

Paragraph 152

Recalling its decisions on Rwanda under its early warning and urgent action procedures, notably its decisions 5 (53) of 19 August 1998 and 3 (54) of 19 March 1999, the Committee is concerned by reports of the intimidation of judicial authorities seeking to investigate and address human rights violations committed since 1994 against ethnic Hutus.

Paragraph 153

The State party is called upon to make additional efforts to investigate allegations of serious ethnic violence and humanitarian law violations that may have been committed and to address these acts through the judicial process, while maintaining full respect for the relevant human rights of accused and detained persons and ensuring that judicial officials are able to conduct their work free from intimidation or other pressure.

- Spain, CERD, A/55/18 (2000) 34 at para. 172.

EFFECTIVE REMEDIES - GENERAL

The State party should review its reservation under article 14, which imposes a restrictive deadline of three months instead of six after the exhaustion of domestic remedies, for the submission of communications to the Committee.

- Tonga, CERD, A/55/18 (2000) 37 at paras. 179 and 180.

Paragraph 179

The State party repeatedly asserted that there is no racial discrimination as defined in article 1 of the Convention. However, it is underlined that the obligation of States parties to enact explicit legislation in accordance with article 4 of the Convention should not be seen merely as a means to ensure protection against existing violations of the Convention, but as a preventive measure. The absence of complaints and legal action by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies, or a result of the absence of relevant specific legislation. It is recommended that the State party take steps to ensure that national legislation is in full conformity with article 4 of the Convention.

Paragraph 180

The fact that the Convention has not been incorporated in domestic law and cannot be invoked before the national courts is noted. However, it is also noted that the State party asserts that the Convention is implicitly applied.

- Zimbabwe, CERD, A/55/18 (2000) 38 at para. 195.

The fact that the Ombudsman is restricted in her powers to investigating the actions of public officials in fields relating to racial discrimination is of concern. There is also concern that article 4 of the amendment to the Ombudsman Act limits access to the complaints process. The State party should take appropriate measures to enable the Ombudsman to monitor public officials and their powers.

- Finland, CERD, A/55/18 (2000) 41 at paras. 211, 212, 216, 218 and 221.

Paragraph 211

The lack of a uniform terminology on discrimination in different Finnish laws is noted. In light of article 1 of the Convention and in order to better combat acts of racism, the adoption of explicit anti-discriminatory legislation is recommended.

Paragraph 212

The Committee reiterates its concern at the absence of a law prohibiting organizations which promote and incite racial discrimination and of a provision in the Penal Code declaring any dissemination of

EFFECTIVE REMEDIES - GENERAL

ideas based on racial superiority or hatred punishable by law. The State party is urged to give due consideration in this respect to General Recommendation VII relating to the implementation of article 4 of the Convention. It is also recommended that the State party consider adopting provisions to increase the severity of sentences for racially motivated crimes, in particular racial violence.

Paragraph 216

With respect to racially motivated crimes, it is of concern that police do not always intervene, their action is not always appropriate and that prosecutors hesitate to initiate criminal proceedings. It is noted that according to a 1999 study on attitudes of public authorities towards immigrants, police and frontier guards have the most negative attitudes. The continuation and strengthening of training programmes for police and all law enforcement officials and the improvement of communication between officials and immigrants in order to enhance mutual confidence is recommended. In cases where police officers are personally involved in racially motivated acts, it is recommended that an independent body investigate. Judges and prosecutors are invited to be more active and firm in prosecuting these cases.

Paragraph 218

In the light of article 6 of the Convention, the only way of obtaining reparation or satisfaction for any damage suffered as a result of an act of racial discrimination is through a penal proceeding. It is recommended that the State party consider ensuring alternative measures to penal proceedings in cases of discrimination.

Paragraph 221

The accepted individual communications procedure under article 14 of the Convention should be widely publicized for the benefit of the general public.

- Mauritius, CERD, A/55/18 (2000) 43 at para. 227.

It is noted with satisfaction that the State party has established two new institutions, namely the National Human Rights Commission and the Committee on Poverty, both of which will contribute to combating racial discrimination.

- Slovenia, CERD, A/55/18 (2000) 45 at para. 244.

It is noted that different minority groups are provided by law with different protective measures in different areas of daily life, such as political representation, access to media, education and culture. Minority groups such as Croats, Serbs, Bosnians and Roma do not enjoy the same level of protection as the Italian and Hungarian minorities. In this connection, it is recommended that the State party, in accordance with article 2 of the Convention, ensure that persons or groups of persons belonging

EFFECTIVE REMEDIES - GENERAL

to other minority groups are not discriminated against.

- Slovakia, CERD, A/55/18 (2000) 47 at para. 261.

The persistence of acts of violence by groups, particularly “skinheads”, directed towards Roma and other ethnic minorities is of concern. The State party should strengthen procedures for timely and thorough investigations and effective prosecutions of racist organizations. The State party is encouraged to expand throughout the State preventive programmes to curb racially motivated violence.

- Czech Republic, CERD, A/55/18 (2000) 50 at paras. 274 and 281-284.

Paragraph 274

The establishment of new advisory bodies on matters relevant to combatting racism and intolerance, in particular the Government’s Commissioner for Human Rights and the Council for Human Rights, are welcomed. In addition, the Committee takes note of the process to enact the draft bill for the creation of a Public Rights Protector (Ombudsman), which is expected to enhance the protection of citizens against any inappropriate treatment by the State administration, including acts of racial discrimination.

Paragraph 281

It is of concern that some organizations, including political parties, promoting racial hatred and superiority are hidden behind legally registered civic associations whose members are promoting xenophobia and racism. Concern is also expressed at the ineffective implementation of existing legislation to prosecute those who incite racial hatred and support racist movements. In light of article 4 of the Convention, the State party should strengthen law enforcement to ensure that these organizations are dismantled and their members prosecuted.

Paragraph 282

While noting the number of convictions for racially motivated offences, the Committee is concerned by the increasing number of incidents of racially motivated violence against minority groups, in particular against members of the Roma community, many of which may not even be reported. The State party should strengthen the measures already undertaken to intensify enforcement of the criminal law against racially motivated crimes.

Paragraph 283

The Committee reiterates its concern at the lack of criminal, civil or administrative law provisions expressly outlawing racial discrimination in education, health care, social care, the penitentiary system, as well as in the private sphere. It is recommended that the State party undertake legislative

EFFECTIVE REMEDIES - GENERAL

reform to safeguard the enjoyment, without any form of discrimination, by all segments of the population, of the economic, social and cultural rights listed in article 5 of the Convention. Such reform should include the provision of adequate reparation for victims of racial discrimination.

Paragraph 284

The Committee reiterates its concern about the lack of effectiveness and confidence in the ability of the criminal judicial system to prevent and combat racial crimes. In this connection, concern is also expressed about the degrading treatment by the police of members of minority groups. The continuation and strengthening of training programmes for police and all officials in charge of implementing the law on issues related to the implementation of the Convention is recommended. The State party is reminded of General Recommendation XIII relating to the implementation of articles 2 and 7 of the Convention.

- Sweden, CERD, A/55/18 (2000) 57 at paras. 335, 340 and 342.

Paragraph 335

Concern is expressed about the recent upsurge in racism and xenophobia which has given rise to increased neo-Nazi violence, especially among youth. The increasing popularity of “white power” music which promotes hatred against ethnic minorities is noted with concern. The State party is encouraged to continue its efforts to arrest the upsurge in racism and xenophobia, prevent and punish racist neo-Nazi violence and prosecute any person whose actions incite racial hatred.

Paragraph 340

In light of article 4 of the Convention, concern is expressed that existing legislation does not prohibit and penalize all organizations and propaganda activities that promote or incite racial hatred and discrimination. It is recommended that the State party declare illegal and prohibit any organization which promotes or incites racial discrimination.

Paragraph 342

Concern is expressed at the increasing incidence of racial discrimination in restaurants, other public places, and with regard to access to services. Effective action should be taken, utilizing administrative measures as well as criminal prosecutions, to ensure that access to places or services intended for use by the general public is not denied on grounds of national or ethnic origin, contrary to article 5 (f) of the Convention.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/55/18 (2000) 60 at paras. 355-357, 359, 366 and 367.

Paragraph 355

EFFECTIVE REMEDIES - GENERAL

The position maintained by the State party with regard to the non-inclusion of the full substance of the Convention within the domestic legal order is noted. The Committee reiterates its concern that full effect has therefore not been given to the provisions of the Convention and that individuals cannot be protected from any discriminatory practices unless they have been explicitly prohibited by Parliament. The State party should consider giving full effect to the provisions of the Convention in its domestic legal order.

Paragraph 356

The Committee reiterates its concern regarding the restrictive interpretation by the State party of the provisions of article 4 of the Convention and maintains that such an interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention. According to General Recommendation XV, all provisions of article 4 are of a mandatory character and the prohibition of dissemination of racist ideas is compatible with the right to freedom of expression. The Committee adds further that the provisions of article 4 are of a preventive nature and that States parties whose territories no organizations promoting and inciting racial discrimination hypothetically exist are nevertheless bound by those provisions.

Paragraph 357

While acknowledging the numerous separate initiatives taken by the State party to combat racial discrimination, the absence of comprehensive legislation is noted. It is recommended that the State party develop an interdepartmental strategy in this regard.

Paragraph 359

The Committee recalls that it has previously expressed concern about incidents of death in police custody disproportionately involving members of ethnic or national minority groups and notes that the problem continues. There have been a number of cases of deaths in police custody and in prisons of members of ethnic minority communities in which no officers of the police or the prison service have been prosecuted nor disciplinary action taken against them by the Independent Police Complaints Authority or the Crown Prosecution Service. The State party should ensure fully independent investigations into complaints against the police, in order to inspire confidence in the criminal justice system among the ethnic minority communities.

Paragraph 366

The State party is encouraged to introduce specific legislation against racial discrimination by private persons or organizations currently taking place in several of the Overseas Territories, such as Anguilla, the British Virgin Islands, Gibraltar, Montserrat, and the Turks and Caicos Islands.

Paragraph 367

The Committee remains concerned that specific legislation against racial discrimination has not yet been introduced in all Overseas Territories, including the Cayman Islands and Montserrat. The State party should continue its efforts to encourage such territories to adopt legislation prohibiting and

EFFECTIVE REMEDIES - GENERAL

penalizing racial discrimination, in accordance with the provisions of the Convention.

- Ghana, CERD, A/55/18 (2000) 64 at paras. 379 and 381.

Paragraph 379

The State party is commended for adopting measures that outlaw the practice of slavery known as “Trokosi”, which affects solely females in the Ewe ethnic group. The State party is encouraged to strictly enforce the criminal sanctions for violations.

Paragraph 381

It is noted with concern that there are continuing tensions between ethnic groups in the northern region of Ghana. The State party should take immediate and effective steps to address the root causes of these tensions.

- Norway, CERD, A/55/18 (2000) 67 at paras. 412, 413, 417 and 418.

Paragraph 412

While it welcomes the incorporation of the International Covenant on Civil and Political rights, the International Covenant on Economic, Social and Cultural Rights and the European Convention on Human Rights into a single (Norwegian) Human Rights Act, the Committee is concerned that the International Convention on the Elimination of All Forms of Racial Discrimination has not been similarly incorporated. The absence of an explicit prohibition of racial discrimination in the Norwegian Constitution increases this concern. The body charged with drafting the Human Rights Act should be further encouraged to introduce the provisions of this Convention into the new statute.

Paragraph 413

It is noted that there has been little progress in monitoring racial discrimination through record-keeping of racist incidents, indictments, sentences and compensation. The State party should review its procedures for monitoring racist incidents in order to increase their effectiveness.

Paragraph 417

Noting that a commission has been established to review the State party’s legislation against racial discrimination, it is recommended that consideration be given to the introduction of provisions within other branches of legislation to supplement the provisions of the Criminal Code wherever this might produce more effective protections.

Paragraph 418

Concern is expressed over reports of racial discrimination in access to places of service to the general public, notably restaurants and discotheques, and over reports that the criminal law does not always

EFFECTIVE REMEDIES - GENERAL

provide effective protection. It is recommended that licences to operate such establishments include a prohibition of racial discrimination.

- Iceland, CERD, A/56/18 (2001) 32 at paras. 153 and 154.

Paragraph 153

It is the State party should fully investigate the possible existence of associations advocating racial discrimination and take appropriate action under Section 233a of the General Penal Code and article 74 of the Constitution, as well as review such legislation if it proves insufficient in enforcing the provisions of article 4 of the Convention. The State party should ensure that the provisions of the Convention are fully reflected in existing legislation and should give further consideration to the possibility of giving the Convention legal force in the Icelandic legal system, as is the case for the European Convention on Human Rights.

Paragraph 154

It is noted that few incidents of racial discrimination are recorded by the police. The State party should carefully review allegations of racial insults and threats suffered by immigrants and consider additional ways in which the formulation of formal complaints in such cases could be encouraged, including publicizing the State party's declaration under article 14 of the Convention.

- Japan, CERD, A/56/18 (2001) 34 at paras. 168, 170, 171 and 178.

Paragraph 168

Concern is expressed that the only provision in domestic legislation relevant to the Convention is article 14 of the Constitution. Taking into account the fact that the Convention is not self-executory, it is necessary to adopt specific legislation to outlaw racial discrimination, in particular in conformity with the provisions of articles 4 and 5 of the Convention.

Paragraph 170

Concern is expressed that racial discrimination as such is not explicitly and adequately penalised in criminal law. The State party should consider giving full effect to the provisions of the Convention in its domestic legal order and should ensure the penalisation of racial discrimination as well as the access to effective protection and remedies through the competent national tribunals and other State institutions against any acts of racial discrimination.

Paragraph 171

Discriminatory statements made by high-level public officials are noted with concern. Concern is particularly expressed about the lack of administrative or legal action taken by the authorities in

EFFECTIVE REMEDIES - GENERAL

violation of article 4(c) of the Convention, and the interpretation that such acts can be punishable only if there is an intention to incite and promote racial discrimination. The State party is urged to take appropriate measures to prevent such incidents in the future and to provide appropriate training to, in particular, public officials, law enforcement officers and administrators with a view to combatting prejudices which lead to racial discrimination, in compliance with article 7 of the Convention.

Paragraph 178

It is of concern that the national redress law offers remedies only on the basis of reciprocity, which is inconsistent with article 6 of the Convention.

- Argentina, CERD, A/56/18 (2001) 18 at paras. 44, 55 and 57.

Paragraph 44

The measures taken to strengthen the National Institute to Combat Discrimination, Xenophobia and Racism (INADI) are welcomed. The activities of INADI are welcomed, such as organizing training seminars for primary and secondary schoolteachers to embrace pluralism, training courses for law enforcement officials, publicity campaigns in the media and the establishment of a mechanism to receive complaints and take action thereon by mediating and intervening in the courts.

Paragraph 55

Although progress has been made, the slow pace of the proceedings relating to the 1992 and 1994 anti-Semitic attacks are regretted. These proceedings should be completed as soon as possible.

Paragraph 57

It is noted that the National Institute to Combat Discrimination, Xenophobia and Racism (INADI) is experiencing difficulties in covering the entire national territory with regard to receiving and handling complaints of racial discrimination. Steps should be taken to address this situation.

- Algeria, CERD, A/56/18 (2001) 16 at para. 32.

It is noted that articles 27 and 42 of the Constitution of Algeria prohibit discrimination based on race, language or religion. Nevertheless, concern is expressed about the inadequate provisions in domestic legislation to address diverse aspects of racial discrimination. The State party should consider incorporating in its domestic legislation a prohibition of racial discrimination in accordance with the Convention and provisions for enforcing the prohibition.

- Sudan, CERD, A/56/18 (2001) 40 at paras. 210 and 212.

EFFECTIVE REMEDIES - GENERAL

Paragraph 210

With regard to articles 4, 5 and 6 of the Convention, the State party should continue its efforts to establish a domestic legal order giving full effect to the provisions of the Convention and ensure effective and equal protection remedies through the competent national tribunals and other State institutions against any acts of racial discrimination and related intolerances.

Paragraph 212

The Committee repeats its concern over continuous reports and allegations regarding the abduction by armed militia of primarily women and children belonging to different ethnic groups. In this regard it notes that the State party, while disassociating itself from any such practices, attributes abduction to traditions deeply rooted among certain tribes. Notwithstanding this position, it is strongly emphasized that it is the State party's responsibility to undertake all measures to bring the practice of abduction to an end and to ensure that legal action be taken against those responsible for such acts, as well as compensatory measures to those aggrieved.

- Portugal, CERD, A/56/18 (2001) 38 at para. 197.

It is recommended that the State party take measures to inform the population in general, and the most vulnerable groups in particular, about the possibility of bringing complaints before the Commission for Equality and against Racial Discrimination.

- Greece, CERD, A/56/18 (2001) at para. 134.

Recalling the repeal of the Citizenship Code, and mindful of the clear incompatibility of this repealed law with the Convention, it is recommended that the State party explore and implement appropriate remedies, including the possibility of reinstatement of citizenship, for the benefit of persons deprived of their citizenship under Article 19 in the past.

- Germany, CERD, A/56/18 (2001) 27 at para. 112.

The Committee shares the State party's concern that despite appropriate actions undertaken and significant improvements of the different means to prevent and punish right-wing extremist, xenophobic and anti-Semitic crimes, the number of racist related incidents, which had more or less stagnated during the 90's, suddenly and dramatically increased during the year 2000. While welcoming the work that has already been accomplished to identify the specific causes of such a phenomenon, the State party is encouraged to reinforce its efforts to prevent and combat such acts, including through further studies and research, in order to understand fully the reasons for the recent

EFFECTIVE REMEDIES - GENERAL

increase in racial violence and to devise appropriate measures.

- Georgia, CERD, A/56/18 (2001) 24 at paras. 92 and 94.

Paragraph 92

Concern is expressed that the legislation currently in force does not fully cover the requirements of article 4 of the Convention. Concern is expressed at the absence of provisions explicitly banning the advocacy of national, racial and religious hatred that constitutes incitement to discrimination, as well as racist propaganda and organizations. The national legislation currently in force is not sufficient to comply with the requirements of article 4 (b), as the latter covers the offence of promoting and inciting racial discrimination, which may fall short of "fomenting ethnic, local, religious or social strife" as provided for in article 5 (2) of the State party's law on political associations of citizens. It is emphasized that in the absence of the establishment of racial discrimination as a specific offence, it might not be punishable and would be difficult to prosecute. The State party should take steps to ensure that national legislation is in full conformity with article 4 of the Convention.

Paragraph 94

The absence of complaints and legal action by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies or a result of the absence of relevant specific legislation. It is therefore essential to provide for the relevant provisions in the national legislation and to inform the public of the availability of all legal remedies.

- Bangladesh, CERD, A/56/18 (2001) 21 at para. 70.

Concern is expressed that racial discrimination as such is not explicitly and adequately prohibited and penalised in criminal law. The State party should consider giving full effect to the provisions of article 4 of the Convention in its domestic legal order, to ensure penalisation of acts of racial discrimination, as well as to ensure access to effective protection and remedies under article 6 of the Convention through competent national tribunals and other State institutions, besides the High Court Division of the Supreme Court, in respect of acts of racial discrimination.

- China, CERD, A/56/18 (2001) 44 at para. 242.

With regard to the implementation of articles 2 and 4 of the Convention, it is noted that articles 149 and 250 of the 1997 Criminal Law of the People's Republic of China prohibit "the incitement of national enmity or discrimination" by any organization or individual. However, the stipulated requisites of serious or flagrant circumstances or consequences are not in accordance with the Convention. Regarding the prohibition of racial discrimination in general, it is recommended that the

EFFECTIVE REMEDIES - GENERAL

State party consider giving full effect to the provisions of the Convention in its domestic legal order and ensure the penalization of racial discrimination, as well as access to effective protection and remedies through the competent national tribunals or other State institutions against all acts of racial discrimination.

- Cyprus, CERD, A/56/18 (2001) 48 at paras. 260 and 261.

Paragraph 260

The establishment of a Complaints Office within the Ministry of Labour and Social Insurance in charge of dealing with complaints made by foreign workers, including domestic workers, is noted with satisfaction.

Paragraph 261

The extension of the powers of the Attorney-General to appoint criminal investigators to investigate police behaviour without the requirement of a written complaint addressed to the Attorney-General by the alleged victim of racial discrimination is welcomed.

- Egypt, CERD, A/56/18 (2001) 50 at para. 282.

The fact that, pursuant to article 151 of the Constitution, international instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, form part of the domestic legal system and can be invoked directly before the courts is welcomed. Furthermore, access to the Supreme Constitutional Court is guaranteed so as to enable citizens to challenge the constitutionality of any domestic provision.

- Italy, CERD, A/56/18 (2001) 53 at paras. 312 and 318.

Paragraph 312

While noting that domestic legislation regarding article 4 of the Convention is appropriate and contains a comprehensive definition of racial discrimination, the Committee, concerned about allegations that racist organizations were not properly punished, requests the State party to examine thoroughly such allegations.

Paragraph 318

While recognizing that the State party has made the declaration provided for under the Convention in 1978, the Committee has not received any communications from persons under the jurisdiction of the State party. The State party should ensure that the public is well informed of the possibility of submitting communications to the Committee.

EFFECTIVE REMEDIES - GENERAL

- Sri Lanka, CERD, A/56/18 (2001) 56 at paras. 324, 325, 329 and 336.

Paragraph 324

The establishment of the Human Rights Commission in March 1997, aimed at, *inter alia*, investigating and settling human rights complaints, advising the Government in the formulation of relevant legislation and making recommendations to the Government on human rights issues is welcomed.

Paragraph 325

The establishment on 20 November 2000 of the Permanent Inter-Ministerial Standing Committee on Human Rights entrusted with the mandate of monitoring and reviewing action taken by government agencies concerning allegations of human rights violations as well as follow up recommendations made by United Nations human rights mechanisms is welcomed.

Paragraph 329

It is noted with appreciation that steps have been taken to address human rights violations, in particular the appointment of three Zonal Commissions of Inquiry to inquire into the disappearances of persons from January 1988 to December 1990.

Paragraph 336

The State party is reminded of its obligation to conduct exhaustive and impartial investigations into allegations of human rights violations involving racial discrimination and bring those responsible to justice. The State party should continue to disseminate knowledge of human rights instruments as well as international humanitarian law among security forces and law enforcement officers.

- Trinidad and Tobago, CERD, A/56/18 (2001) 58 at paras. 347, 350 and 352.

Paragraph 347

The State party has taken significant steps which will contribute to combatting racial discrimination, including the passage of the Equal Opportunities Act, No. 39 of 2000, the Judicial Review Act, No. 60 of 2000 and other pertinent legislation. The proposed steps to strengthen the powers of the Ombudsman, including to enable him to apply to the High Court for the enforcement of his recommendations, is welcomed. The recent introduction of public interest litigation by the Judicial Review Act should further assist in the effective work of the Ombudsman.

Paragraph 350

The absence of complaints by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies. It is therefore essential to inform the public of the availability of all legal remedies.

EFFECTIVE REMEDIES - GENERAL

Paragraph 352

It is of concern that the Police Complaints Authority, which receives complaints about the conduct of police officers and monitors their investigation, has indicated that racial discrimination is not a category of complaint which is examined, owing to the small number of such complaints. The assurances of the delegation that the Police Complaints Authority will be given clear instructions to identify complaints of racial discrimination as a separate category and to report to the higher authorities the results of investigations into cases of racial discrimination is welcomed.

- Ukraine, CERD, A/56/18 (2001) 61 at paras. 372 and 377.

Paragraph 372

Institutions are not sufficiently utilized to enforce laws against racial discrimination and provide remedies and recourse measures.

Paragraph 377

Noting that it has not yet received any individual communications from persons under the jurisdiction of the State party, although the State party has accepted the jurisdiction of the Committee under article 14, the State party should ensure that the public is well informed of the possibility of submitting such communications to the Committee.

- United States of America, CERD, A/56/18 (2001) 64 at para. 394.

The incidents of police violence and brutality are noted with concern, which include cases of deaths as a result of excessive use of force by law enforcement officials, particularly affecting minority groups and foreigners. The State party should take immediate and effective measures to ensure the appropriate training of the police force with a view to combatting prejudices which may lead to racial discrimination and ultimately to a violation of the right to security of persons. Firm action should also be taken to punish racially motivated violence and ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation for any damage suffered as a result of such actions.

- Liberia, CERD, A/56/18 (2001) 70 at paras. 439 and 441.

Paragraph 439

The State party is urged to take immediate and effective measures aimed at bringing to justice the perpetrators of human rights abuses during the civil war which targeted members of certain ethnic

EFFECTIVE REMEDIES - GENERAL

groups.

Paragraph 441

With regard to article 6 of the Convention, the State party should facilitate access to ensure the effectiveness of courts and administrative bodies in enforcing the right of racial and ethnic groups to be free from discrimination.

ICCPR

- Mongolia, ICCPR, A/47/40 (1992) 134 at para. 602.

The State party should ensure that the provisions of the Covenant are fully incorporated into domestic law and are able to be invoked in a court of law. The review presently in progress of current and proposed legislation, policies and administrative procedures should be based on the Covenant and other international human rights instruments in order to ensure that forthcoming changes will accord with the obligations of the State party under these instruments.

- Burundi, ICCPR, A/48/40 vol. I (1993) 16 at para. 71.

Special concern is expressed over the cases of extrajudicial executions and of torture in connection with the upheavals that took place in 1988, 1991 and 1992. In that connection, no derogation from articles 6 and 7 of the Covenant is permitted under any circumstances. The unavailability of effective remedies to victims of human rights violations; the absence of legal provisions prohibiting illegal detention; the shortage of legal personnel and the financial constraints which hampered the administration of justice; the general inadequacy of the legal and other measures designed to promote and protect human rights; the various constitutional limitations on the effective enjoyment of human rights; and problems relating to the effective implementation of articles 18, 19 and 27 of the Covenant are of concern.

- Luxembourg, ICCPR, A/48/40 vol. I (1993) 30 at paras. 143-145.

Paragraph 143

Areas of concern include article 18 of the Constitution which still presupposes the existence of the death penalty; the lack of a remedy to decisions of the Prosecutor General regarding internment of the mentally ill; the deprivation of the right to vote as a further sanction in criminal cases; and continuing provision in the law for hard or forced labour, which has not yet been abolished.

Paragraph 144

EFFECTIVE REMEDIES - GENERAL

Steps should be undertaken to disseminate information about the Covenant and the Optional Protocol; the use of solitary confinement should be restricted to short, temporary periods and only where necessary as part of disciplinary measures; an effective remedy should be provided for those who have been subjected to solitary confinement in a prison or to internment in a facility for the mentally ill; and legislation on criminal procedure should be reviewed so that it is fully in line with provisions concerning pre-trial detention under article 9 and the presumption of innocence under article 14 of the Covenant.

Paragraph 145

The State party should consider abolishing the deprivation of the right to vote as part of legitimate punishment; consider a new approach to guaranteeing the rights of minorities, particularly in regard to the system of conventions between the State and various religious communities; and consider the need for a constitutional remedy to further clarify situations where conflicts may seem to arise between the provisions of the Covenant and the Constitution.

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at para. 266.

Effective measures should be adopted to ensure the strictest observance of articles 7 and 10 of the Covenant. All complaints of extrajudicial executions, disappearances, torture and ill-treatment should be duly investigated, the culprits should be punished and measures should be taken to prevent any recurrence of such acts. Severe forms of punishment incompatible with the Covenant should be removed from law and practice and the conditions of detention of persons deprived of their liberty should be improved.

- Venezuela, ICCPR, A/48/40 vol. I (1993) 61 at paras. 307 and 310.

Paragraph 307

The serious human rights violations, such as enforced and involuntary disappearances, torture and extrajudicial executions, that were committed during the attempted *coup d'état* in 1989 and early 1992 are of concern. The failure to take sufficient steps to punish those guilty of such violations, and that members of the police force and the security services and military personnel are likely to go unpunished as a result, are disturbing matters. It is noted that judicial investigations into such cases have clearly been too slow, especially where members of the armed forces are concerned.

Paragraph 310

The State party should take whatever steps are necessary to combat all human rights violations, in particular those that may have been committed during the various states of emergency. The State party should see to it that all members of the armed forces of the police who have committed

EFFECTIVE REMEDIES - GENERAL

violations of the rights guaranteed by the Covenant are tried and punished by civilian courts. The duration of custody should be reviewed, and an accused person should be allowed to undergo a medical examination upon request and to have access to his lawyer from the time of arrest. Steps should also be taken to make the remedy of *amparo* effective, and to improve conditions in places of detention substantially.

- Niger, ICCPR, A/48/40 vol. I (1993) 88 at para. 425.

Investigations should be conducted into the cases of extrajudicial executions which were carried out in the context of the disturbances in 1991 and 1992 in the north of the country and of the torture and maltreatment of persons deprived of their freedom. The agents of the State responsible for such human rights violations should be tried and punished. They should in no case enjoy immunity, *inter alia*, through an amnesty law, and the victims or their relatives should receive compensation.

- Dominican Republic, ICCPR, A/48/40 vol. I (1993) 95 at paras. 461 and 463.

Paragraph 461

Concern is expressed over the low level of legal protection and effective remedies available to the public concerning arbitrary arrest and lengthy pre-trial detention. The large number of detainees awaiting trial is particularly worrisome in view of the high number of cases of alleged police abuse during detention and reports of unhealthy prison conditions. It is also underlined that punishment by exile is not compatible with the Covenant. Moreover, the powers and independence of the judiciary do not appear to be sufficiently protected. A judicial order for release should be implemented without question.

Paragraph 463

A major initiative aimed at harmonizing domestic legislation with the provisions of the Covenant should be undertaken. In this regard, the Constitution and the relevant civil and penal codes should be reviewed in order to bring the law and its application into line with the provisions of the Covenant. The State party should also consider the establishment of offices and mechanisms to monitor the application of human rights standards and to promote and protect human rights. This could include the designation of an independent office to receive complaints, and, where necessary, undertake investigations into abuses. More publicity should be given to the provisions of the Covenant and the Optional Protocol in order to ensure that the legal profession, the judiciary and the general public are more aware of their contents.

- Uruguay, ICCPR, A/48/40 vol. I (1993) 102 at para. 507.

EFFECTIVE REMEDIES - GENERAL

The State party should continue in its efforts to harmonize domestic laws with the provisions of the Covenant. In particular, procedures for dealing with remedies should be reviewed. The establishment of an impartial and independent authority to monitor the application of human rights standards and to receive complaints of abuses is recommended. Greater publicity should be given to the Covenant and the Optional Protocol to ensure that the provisions of these instruments are widely known to members of the legal profession, the judiciary and law enforcement officials, as well as to the general public. Adequate follow-up should also be ensured with respect to the views adopted by the Committee on individual cases considered under the Optional Protocol.

- Ireland, ICCPR, A/48/40 vol. I (1993) 119 at para. 602.

The status of the Covenant in the domestic legal order and the lack of clarity concerning the resolution of possible conflicts between the Covenant and domestic legislation are of concern. In accordance with article 2 of the Covenant, States parties are required to give effect to all of its provisions and provide an effective remedy for any person whose rights and freedoms, as recognized in the Covenant, have been violated.

- Hungary, ICCPR, A/48/40 vol. I (1993) 128 at para. 665.

The State party should ensure that the provisions of the Covenant are fully incorporated into domestic law or are given direct effect. The texts of the Covenant and the first Optional Protocol should be widely publicized so that the judiciary, the relevant governmental agencies, and the general public are made fully aware of the rights enshrined in the provisions of these instruments. Adequate training in human rights norms should be provided for members of the judiciary and the legal profession, as well as police and prison officials, and human rights education should be included in the school and university curricula. Positive measures should be taken to involve women in political participation and decision-making. Laws on entry, residence, detention, and expulsion of aliens need a thorough review. Attention should be paid in the present and future legislation, and in practice, to ensure that any limitations on human rights are strictly in conformity with those permissible under the Covenant.

- Bulgaria, ICCPR, A/48/40 vol. I (1993) 149 at paras. 746 and 753.

Paragraph 746

More energetic measures have to be taken to eliminate discrimination against ethnic and religious minorities and to encourage tolerance. To that end, a full human rights teaching programme should be set up and effective penalties should be imposed on persons who abuse their authority, particularly law enforcement officials. It is stressed that, under article 27 of the Covenant, minorities should not only have the same economic and political status as other Bulgarian citizens, but should also benefit

EFFECTIVE REMEDIES - GENERAL

from special measures of protection.

Paragraph 753

The fact that judicial review of administrative decisions is available exclusively through appeal to the Supreme Court may not provide citizens with a remedy in compliance with article 2 of the Covenant. Similarly the Committee notes with concern that not all cases of torture that took place under the former regime have had redress and that the harassment of Bulgarian citizens of Turkish ethnic origin that took place under the former regime has lingering negative effects for citizens belonging to that group.

- Iceland, ICCPR, A/49/40 vol. I (1994) 19 at paras. 76 and 79.

Paragraph 76

The apparent preference accorded, in the domestic law as well as in legal doctrine and jurisprudence, to the European Convention for the Protection of Human Rights and Fundamental Freedoms as against the International Covenant on Civil and Political Rights is of concern. In that regard, the attention of the State party is drawn to the fact that the latter guarantees a number of human rights not protected under the former and that permissible restrictions are less broad-based.

Paragraph 79

Appropriate measures should be taken to incorporate provisions of the Covenant into domestic law and to ensure that the Covenant is treated on an equal footing with regional human rights instruments, both in legal and practical terms.

See also:

- Malta, ICCPR, A/49/40 vol. I (1994) 26 at para. 125.

- Romania, ICCPR, A/49/40 vol. I (1994) 28 at para. 146.

Steps should be taken to strengthen recourse procedures for victims of police abuse and to ensure adequate follow-up to reports of abuse by thorough investigations and by applying criminal rather than merely administrative sanctions against offenders.

- Mexico, ICCPR, A/49/40 vol. I (1994) 33 at paras. 178 and 179.

Paragraph 178

The State party should provide the National Human Rights Commission with the authority necessary

EFFECTIVE REMEDIES - GENERAL

for its effective functioning, in complete independence from the political and administrative authorities, and should allow it to refer cases to the competent judicial authorities where it finds that rights guaranteed by the Covenant have been violated.

Paragraph 179

All cases of extrajudicial execution, torture and arbitrary detention should be investigated in order to bring those suspected of having committed such acts before the courts, those found guilty should be punished and the victims should be compensated. Law enforcement officials should be properly trained so that ensuring respect for the basic rights of the persons placed under their control becomes an integral part of their task.

- El Salvador, ICCPR, A/49/40 vol. I (1994) 38 at para. 221.

All necessary measures should be urgently taken to combat the continuing human rights violations in El Salvador. All violations should be thoroughly investigated, the offenders punished and the victims compensated. In this connection, the Office of the Procurator for the Protection of Human Rights should be strengthened, both with regard to resources and competence, in order to ensure that the Procurator may effectively carry out his or her responsibilities.

- Jordan, ICCPR, A/49/40 vol. I (1994) 41 at para. 230.

The Constitution does not contain specific provisions as to the relationship between international conventions and domestic law. Accordingly, there is a need to define the place of the Covenant within the Jordanian legal system to ensure that domestic laws are construed in conformity with the provisions of the Covenant. Furthermore, the general legal framework is still not in conformity with the provisions of the Covenant. It is also regretted that the Constitutional Court has not yet been established.

- Togo, ICCPR, A/49/40 vol. I (1994) 44 at paras. 250, 261 and 267.

Paragraph 250

The large number of cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary or unlawful detention committed by members of the army, security or other forces during the period under review is deplored. It is of deep concern that those violations were not followed by any inquiries or investigations, that the perpetrators of such acts were neither brought to justice nor punished and that the victims were not compensated. It is noted that failure to exclude violators of human rights from service in the military or the security forces seriously undermines the transition to democracy.

EFFECTIVE REMEDIES - GENERAL

Paragraph 261

All necessary measures should be taken to prevent summary or arbitrary executions, enforced or involuntary disappearances, torture and ill-treatment and illegal or arbitrary detention. All such cases should be systematically investigated in order to bring those suspected of having committed such acts before the courts, those found guilty should be punished and the victims should be compensated.

Paragraph 267

Measures should be taken to allow for a proper resumption of the activities of the National Human Rights Commission under its statutes, including the guarantee of safety of its members and proper funding.

- Italy, ICCPR, A/49/40 vol. I (1994) 47 at paras. 277 and 284-286.

Paragraph 277

It is regretted that the office of the citizens' advocate has not yet been established at the national level and that similar offices do not exist in all regions of the State party. Furthermore, there do not appear to be any guidelines regarding cooperation and coordination between those different offices. These facts combined with distinctions in the powers and functions of the regional and local citizens' advocates, may cause unequal protection for individuals depending on the place where they live.

Paragraph 284

Necessary measures should be undertaken to establish a citizens' advocate office at the national level. It is also recommended that, at the regional level, where this has not yet been done, citizens' advocate offices be established and that functions and powers of regional citizens' advocates be harmonized.

Paragraph 285

The State party should consider making torture a specific criminal offence. In addition, measures should be strengthened to protect the rights of detainees by promptly investigating allegations of ill-treatment and ensuring that appropriate penalties are applied whenever such offences are committed. The commission of such acts should be prevented through efforts to ensure the stricter observance of regulations relating to the treatment of detainees and offenders. The length of preventive detention should be reduced, taking into account the principle of presumption of innocence and the complexity of the investigation. More effective and thorough human rights training should be provided to law enforcement officials and prison officers.

Paragraph 286

The State party should re-examine the possibility of civil liability of judges in the light of the Basic Principles on the Independence of the Judiciary.

EFFECTIVE REMEDIES - GENERAL

- Azerbaijan, ICCPR, A/49/40 vol. I (1994) 50 at para. 305.

The Government should put an end to the gross violations of human rights that have occurred and continue to occur in Azerbaijan, conduct investigations into them, punish the persons guilty of such acts and compensate the victims.

- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at para. 333.

Measures should be taken to ensure greater public awareness of the provisions of the Covenant and the Optional Protocol and the legal profession as well as judicial and administrative authorities should have detailed information on those instruments in order to ensure their effective application.

- Burundi, ICCPR, A/49/40 vol. I (1994) 58 at paras. 364 and 368.

Paragraph 364

The State party should initiate without delay a process of national reconciliation. This process should be accompanied by various specific measures such as the establishment of commissions of inquiry made up of members of each of the country's population groups. Impartial foreign observers could participate in the inquiries in order to identify those responsible for gross violations of human rights in the autumn of 1993, to bring them to trial and punish them and to remove all persons involved in such crimes from the various State bodies, particularly the army, the police, the gendarmerie and the security forces. The victims and their families should also be compensated.

Paragraph 368

The United Nations High Commissioner for Human Rights should continue to make strenuous efforts to help Burundi avoid any future recurrence of gross violations of human rights, for example, by encouraging the establishment of international investigation machinery.

- Argentina, ICCPR, A/50/40 vol. I (1995) 35 at para. 156.

Cases of excessive use of force, torture and arbitrary or unlawful detentions committed by members of the police and the armed forces are of concern. There is no clear mechanism for investigating complaints of police violence to ensure there will be no reprisals against complainants. Where provincial administrations are lax in dealing with allegations of police violence, the federal authorities do not ensure compliance with the Covenant. The perpetrators of acts of police violence generally are not punished and the victims are not compensated. The delay in resolving the situation of children of disappeared persons and the failure of the report to provide any information at all on the real situation as it relates to article 7 of the Covenant is especially disturbing.

EFFECTIVE REMEDIES - GENERAL

- New Zealand, ICCPR, A/50/40 vol. I (1995) 38 at para. 185.

The Bill of Rights should be revised in order to bring it into full consistency with the provisions of the Covenant and the courts should be given the power, as soon as possible, to strike down or decline to give effect to legislation on the ground of inconsistency with Covenant rights and freedoms as affirmed in the Bill of Rights.

- Paraguay, ICCPR, A/50/40 vol. I (1995) 42 at para. 216.

The State party should continue to investigate allegations of human rights violations, past and present, for which purpose all archives of the past regime should be carefully explored. The State party should further act on the findings of its investigations to bring to justice the perpetrators and to provide proper compensation to the victims, particularly with respect to continuing occurrences of torture and ill-treatment by the police and security forces. An independent and credible mechanism should be instituted for dealing with complaints of police violence and the existence of this mechanism should be publicized.

- Haiti, ICCPR, A/50/40 vol. I (1995) 46 at paras. 231 and 240.

Paragraph 231

The importance of investigation of human rights violations, determination of individual responsibility and fair compensation for the victims is emphasized, and it is regretted that the Commission on Truth and Justice has not yet initiated its work.

Paragraph 240

Respect for human rights should be recognized as an essential element of the process of national reconciliation and reconstruction. To that end, the provisions of the Covenant should be fully incorporated into the national legal system; the administration and Parliament, as a confidence-building measure, should set up special institutions, open to individuals, to assist in the daily implementation of human rights; comprehensive human rights training should be provided to judges, the police and the military; and human rights education should be provided in schools at all levels.

- Yemen, ICCPR, A/50/40 vol. I (1995) 49 at para. 251.

Attention is called to the contradictions between the Covenant and the Constitution, which affords a lower level of human rights protection than the Covenant. Victims of human rights violations, despite the direct applicability of the Covenant, may be denied an effective remedy if the courts

EFFECTIVE REMEDIES - GENERAL

adhere to the standards set forth in the Constitution.

- United States of America, ICCPR, A/50/40 vol. I (1995) 52 at para. 297.

All necessary measures should be taken to prevent any excessive use of force by the police; rules and regulations governing the use of weapons by the police and security forces should be in full conformity with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; any violations of these rules should be systematically investigated in order to bring those found to have committed such acts before the courts; and those found guilty should be punished and the victims should be compensated. Regulations limiting the sale of firearms to the public should be extended and strengthened.

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at paras. 314 and 328.

Paragraph 314

The continuing applicability of the Constitution, which does not provide guarantees and recourse procedures in full conformity with the Covenant, is of concern. Furthermore, it has not been made sufficiently clear during the consideration of the report whether, under the law and in the practice of the courts and administrative authorities, provisions of the Covenant are systematically applied in precedence to a conflicting provision of domestic law.

Paragraph 328

The need for greater control over the police is emphasized. There should be intensive training and educational programmes in the field of human rights aimed at law-enforcement officials. Steps should be taken to strengthen recourse procedures for victims of police abuse and detained persons. Adequate follow-up to reports of such abuse should be ensured by thorough investigations and appropriate penal and administrative sanctions.

- Latvia, ICCPR, A/50/40 vol. I (1995) 62 at paras. 342 and 357.

Paragraph 342

It is regretted that the Covenant has not been given an overriding status in the Latvian legal order and that the Constitutional Law on the Rights and Obligations of a Citizen and a Person of 10 December 1991 has no constitutional status. The absence of a body, such as a Constitutional Court, charged with determining, *inter alia*, the conformity of domestic laws with the provisions of the Covenant and other relevant human rights instruments, is of concern.

Paragraph 357

EFFECTIVE REMEDIES - GENERAL

The need for greater control over the police, particularly in the context of the recent authoritarian past from which Latvian society is emerging, is emphasized. Intensive training and education programmes in the field of human rights for law enforcement officials as well as officials of the correctional service are recommended. Steps should be taken to institute effective recourse procedures for victims of police abuse and detained persons. Adequate publicity should be given to pronounced administrative and penal sanctions.

- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at paras. 374 and 392.

Paragraph 374

It is of concern that the profound legislative changes taking place within the State party have not been matched by the actual protection of human rights at the implementation level. Specifically, it is regretted that many of the rights established under the Constitution have not been put into effect through the enactment of implementing laws and regulations and that the relationship of the various bodies entrusted with the protection of human rights has not been clearly defined. In this connection, it is regretted that the responsibilities of the Human Rights Commissioner, although understood to be broad in nature and to include the power to investigate complaints of human rights violations, to bring cases to the Constitutional Court whenever Constitutional rights are infringed and to take legislative initiatives, are not specified in the Constitution and have not yet been legally defined in subsequent legislation. In addition, the responsibilities of the Procurator's Office with respect to the protection of human rights would appear to coincide in many respects with those of the Human Rights Commissioner. In relation to these bodies, it is not clear why the Presidential Human Rights Commission operating directly under the President, who is personally responsible as guarantor of human rights under the Constitution, is empowered only with recommendatory functions, or what mechanisms are in place to ensure that presidential decrees conform with the Covenant.

Paragraph 392

The relationship between the various bodies charged with the protection of human rights should be clearly defined and coordinated and the existence and functions of these bodies should be widely publicized. A mechanism should be clearly established to ensure conformity of all presidential decrees and laws with the provisions of the Covenant and other international human rights instruments to which the State is party.

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/50/40 vol. I (1995) 72 at para. 420.

Notwithstanding the establishment of mechanisms for the external supervision of investigations of incidents in which the police or military are allegedly involved, especially incidents that result in the

EFFECTIVE REMEDIES - GENERAL

death or wounding of persons, concern is expressed at the fact that the investigations are still carried out by the police and are thus lacking sufficient credibility.

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at paras. 446, 463 and 465.

Paragraph 446

The time-limit of two years proposed in the draft new Constitution for challenging the validity of enacted legislation with the Constitution is a matter of serious concern. Equally, concern is expressed with respect to the provisions of article 16 (1) of the Constitution, which permit all existing laws to remain valid and operative notwithstanding any inconsistency with the Constitution's provisions relating to fundamental rights.

Paragraph 463

The efforts being undertaken by the Government to establish various mechanisms to promote and protect human rights, including with respect to the National Human Rights Commission are noted. In this regard, the proliferation of bodies with parallel competences should be avoided and the coordination of such mechanisms should be ensured. The State party should take into account that investigation and prosecution of criminal offences should be carried out by an independent body and that punishment of criminal offences should be carried out by the judiciary.

Paragraph 465

The provisions of the Covenant should be fully respected in the areas where a state of emergency has been proclaimed. The State party should vigorously investigate all violations of human rights - both past and present - through an independent agency, punish those guilty of such acts and compensate the victims.

- Estonia, ICCPR, A/51/40 vol. I (1996) 19 at para. 125.

The State party should review the Law on the Implementation of the Constitution with regard to the obligation to take an oath of conscience, with a view to bringing the Law fully into line with non-discrimination provisions and article 25 of the Covenant and should provide for the right to an effective remedy against a decision not to appoint or to dismiss a person in case of refusal to take such an oath.

- Spain, ICCPR, A/51/40 vol. I (1996) 24 at para. 183.

The State party should establish transparent and equitable procedures for conducting independent investigations into complaints of ill-treatment and torture involving the security forces, and should

EFFECTIVE REMEDIES - GENERAL

bring to court and prosecute officials who are found to have committed such deeds and punish them appropriately.

- Zambia, ICCPR, A/51/40 vol. I (1996) 29 at paras. 196 and 210.

Paragraph 196

Section 43 of the Constitution, which restricts the right of individuals to pursue civil remedies against the President in the courts for anything done in his private capacity, is incompatible with the provisions of article 14 of the Covenant.

Paragraph 210

The authorities should take the necessary steps to ensure that torture, ill-treatment and illegal detention do not occur and any such cases should be duly investigated by an independent authority, in order to bring before the courts those accused of having committed such acts and to punish them if found guilty.

- Peru, ICCPR, A/51/40 vol. I (1996) 48 at para. 359.

Immediate measures should be taken to release innocent prisoners and provide them with compensation and to systematically revise, on a non-discretionary basis, convictions handed down by the military tribunals in treason and terrorism cases, particularly convictions based on lack of identification documents or on evidence obtained in the application of the repentance law. The same applies to detainees awaiting trial.

- Gabon, ICCPR, A/52/40 vol. I (1997) 24 at para. 134.

The Covenant should be incorporated into the domestic legal order and its provisions should be made directly applicable before the courts. In this connection, the importance of establishing a national commission on human rights as a permanent and independent mechanism to monitor the effective implementation of the Covenant, the provision of training to law enforcement officials and the dissemination of appropriate information to the public is emphasized.

- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at para. 272.

The establishment of a Commission of Inquiry to deal with complaints concerning forced disappearances, which provides for protective measures for complainants and witnesses, is

EFFECTIVE REMEDIES - GENERAL

appreciated. The establishment of a national registry listing disappeared people, together with the creation of a commission for the follow-up of cases of forced disappearances and composed, among others, of the Public Prosecutor, the Ombudsman and representatives of non-governmental organizations, are viewed as positive steps in the struggle against forced disappearances.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at para. 349.

The State party should review its laws, especially those governing the status of women, women's rights and obligations in marriage and civil obligations; make appropriate amendments to them; and take appropriate action to ensure full legal and *de facto* equality for women in all aspects of society. Accessible and effective remedies should be available in respect of all forms of discrimination.

- Slovakia, ICCPR, A/52/40 vol. I (1997) 58 at para. 375.

Priority should be given to addressing discrimination, in particular through training and education campaigns, and mechanisms should be urgently established to monitor non-discrimination laws and to receive and investigate complaints from victims.

- France, ICCPR, A/52/40 vol. I (1997) 62 at paras. 397 and 413.

Paragraph 397

Concern is expressed over the fact that no specific mechanism exists in France to ensure that the views expressed by the Human Rights Committee on individual communications under the Optional Protocol are complied with. Therefore, the Committee suggests that a mechanism be established for this purpose.

Paragraph 413

An institutional mechanism should be established by the Government of France for receiving complaints of violations of human rights, including all forms of discrimination, with the power to determine whether such complaints are justified, to act as conciliator between the parties and to award compensation.

- India, ICCPR, A/52/40 vol. I (1997) 67 at paras. 428, 437, 438 and 446.

Paragraph 428

Steps should be taken to incorporate fully the provisions of the Covenant into domestic law, so that

EFFECTIVE REMEDIES - GENERAL

individuals may invoke them directly before the courts. Consideration should also be given by the authorities to ratifying the Optional Protocol to the Covenant, enabling the Committee to receive individual communications relating to India.

Paragraph 437

It is regretted that the National Human Rights Commission is prevented by clause 19 of the Protection of Human Rights Act from investigating directly complaints of human rights violations against the armed forces, but must request a report from the central Government. It is further regretted that complaints to the Commission are subject to a one-year time limit, thus preventing the investigation of many alleged past human rights violations. Therefore, it is recommended that these restrictions be removed and that the National Human Rights Commission be authorized to investigate all allegations of violations by agents of the State. Furthermore, all states within the Union should be encouraged to establish human rights commissions.

Paragraph 438

Concern is expressed at allegations that police and other security forces do not always respect the rule of law and that, in particular, court orders for *habeas corpus* are not always complied with, particularly in disturbed areas. Concern is also expressed over the incidence of custodial deaths, rape and torture, and at the failure of the Government of India to receive the United Nations Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment. Therefore, it is recommended that:

- (a) legislation for mandatory judicial inquiry into cases of disappearance and death, ill-treatment or rape in police custody be enacted early;
- (b) special measures be adopted to prevent the occurrence of rape of women in custody;
- (c) The mandatory notification of relatives of detainees without delay;
- (d) the right of detainees to legal advice and assistance and to have a medical examination be guaranteed;
- (e) priority be given to providing training and education in the field of human rights to law enforcement officers, custodial officers, members of the security and armed forces, and judges and lawyers, and that the United Nations Code of Conduct for Law Enforcement Officials be taken into account in this regard.

Paragraph 446

The high incidence of child prostitution and trafficking of women and girls into forced prostitution is deplored. The lack of effective measures to prevent such practices and to protect and rehabilitate the victims is regretted. It is also regretted that women who have been forced into prostitution are

EFFECTIVE REMEDIES - GENERAL

criminalized by the Immoral Trafficking Prevention Act and, further, that article 20 of the Act puts the burden of proof on a woman to prove that she is not a prostitute, which is incompatible with the presumption of innocence. Therefore, the application of this law to women in the situation described should be repealed and measures should be taken to protect and rehabilitate women and children whose rights have been violated in this way.

- Senegal, ICCPR, A/53/40 vol. I (1998) 13 at paras. 60 and 61.

Paragraph 60

In the context of events in Casamance, the allegations received regarding the indiscriminate killing of civilians by the army and police, of disappearances, and of ill-treatment and use of torture against persons suspected of being supporters of the Mouvement des forces démocratiques de Casamance (MFDC) are of concern. Therefore, measures should be taken to ensure the full observance of articles 6 and 7 by military personnel and police, and the effective implementation in practice of article 7 of the Covenant *vis à vis* people suspected of being MFDC sympathizers. It is also recommended that, especially because of the distance from the capital and the region's proximity to neighbouring States, consideration be given to establishing an independent mechanism to monitor and investigate human rights abuses in Casamance, and persons found responsible for violations of rights should be brought to justice and the victims compensated. Further training in human rights should be provided for all security and law enforcement personnel.

Paragraph 61

Judges and lawyers should make use of ordinary criminal law provisions to deal with instances of female genital mutilation until a specific law for this offence, the adoption of which the Committee strongly supports, is enacted. In this regard, the State party should launch a systematic campaign to promote popular awareness of persistent negative attitudes towards women and to protect them against all forms of discrimination, and the State party should abolish practices prejudicial to women's health and reduce maternal mortality.

- Jamaica, ICCPR, A/53/40 vol. I (1998) 15 at paras. 80, 81 and 87.

Paragraph 80

The incidence of domestic violence against women is of concern. Increased efforts should be made to sensitize the population to the need to respect women's dignity, legislation should ensure ready access to remedies for violations of women's human rights, and social and educational programmes should be pursued to ensure the upholding of women's rights by way of abolishing all discrimination.

Paragraph 81

The serious persisting deficiencies in the administration of the State party's prison system are of

EFFECTIVE REMEDIES - GENERAL

concern. These include conditions of imprisonment which the Committee considers incompatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners and article 10 of the Covenant. Attention should be paid to the lack of sanitary facilities, lighting in cells, adequate diet, adequate training of prison staff, adequate facilities for visits of convicted prisoners (by relatives and by their legal representatives) and recurrent ill-treatment of inmates. In this regard, effective means of redress, without reprisals, should be available for detainees and prisoners regarding complaints of ill-treatment by police or prison wardens, and the Boards of Visitors should examine all such complaints and report to the prison governor. An independent prison inspectorate should be established which would report publicly on its findings.

Paragraph 87

Concern is expressed over the fact that not all cases of death at the hands of the police or security forces are subject to a coroner's inquest. All such deaths should be inquired into and inquests ordered under the Coroners Act, which are adjourned pending the consideration by the Department of Public Prosecutions of potential charges, must be reopened if no prosecution ensues.

- Iraq, ICCPR, A/53/40 vol. I (1998) 18 at para. 97.

The reports from many sources concerning the high incidence of summary executions, arbitrary arrests and detention, torture and ill-treatment by members of security and military forces, disappearances of many named individuals and of thousands of people in northern Iraq and in the southern marshes, and forced relocations are of concern. In this respect, the lack of transparency on the part of the Government in responding to these concerns is regretted. The statement by the delegation that a non-governmental committee has been established to deal with disappearances is also noted, and it is regretted that information on its functions or on its powers to investigate cases of involuntary disappearance, to bring those found responsible to justice and to otherwise prevent and combat disappearances in Iraq was not obtainable. Therefore, it is recommended that all allegations mentioned above be fully, publicly and impartially investigated, that the results of such investigations be published and that the perpetrators of those acts be brought to justice.

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at paras. 211, 213 and 217.

Paragraph 211

Not all of the rights in the Covenant have been made part of domestic law and cannot be invoked directly before domestic courts. Notwithstanding the State party's stated policy of thorough legislative review in order to ensure compatibility of domestic legislation with the Covenant, the absence of effective institutional mechanisms to ensure systematic implementation and monitoring of its provisions is noted. The increasing trend to enact Parliamentary legislation and constitutional amendments to frustrate decisions of the Supreme Court that uphold rights protected under the

EFFECTIVE REMEDIES - GENERAL

Covenant and overturn certain laws incompatible with it is of concern.

Paragraph 213

The State party should undertake a comprehensive review of its domestic legislation, including the Constitution, with a view to ensuring its full compatibility with the principles and provisions of the Covenant. The State party is urged to ensure that the Covenant rights are not restricted or overridden by incompatible legislation and that individuals are able to challenge in the courts the application of laws which affect their rights under the Covenant. The establishment of institutional mechanisms to ensure the integration of Covenant rights in law and practice is recommended.

Paragraph 217

The subordinate status of women in Zimbabwean society is of concern. Measures should be taken, in accordance with articles 3 and 26 of the Covenant, to eliminate discrimination against them and promote their role in society. There should be mechanisms to receive complaints, award appropriate remedies and report publicly on problems and progress.

- Uruguay, ICCPR, A/53/40 vol. I (1998) 38 at para. 247.

In individual cases, where the Committee has established a violation of the Covenant, it is not appropriate to expect a person found to be a victim of a human rights violation to have to initiate new procedures before the domestic courts to establish the violation. The statute of limitations should not apply. The State party should provide a remedy in accordance with the Views adopted by the Committee on individual cases considered under the Optional Protocol.

- Finland, ICCPR, A/53/40 vol. I (1998) 40 at para. 256.

Efforts to promote racial tolerance by the establishment of the Parliamentary Ombudsman, the Chancellor of Justice, the Ombudsman for Aliens, and the Advisory Board for Refugee and Migrant Affairs, as well as the implementation of a human rights curriculum in the schools, are commended.

- Algeria, ICCPR, A/53/40 vol. I (1998) 52 at para. 354.

The Committee is appalled at the widespread massacre of men, women and children in a great number of villages and towns; is seriously concerned that women have been the victims of not only killings, but also of abduction, rape and severe violence; and is concerned at the lack of timely or preventive measures of protection to the victims from police or military officials in the vicinity and at the persistent allegations of collusion of members of the security forces in terrorist attacks. The State party is urged to adopt effective measures:

EFFECTIVE REMEDIES - GENERAL

(a) to prevent those attacks and, if they nevertheless occur, to come promptly to the defence of the population;

(b) to ensure that proper investigations are conducted by an independent body to determine who the offenders are and to bring them to justice; and

(c) to conduct, in all cases of massacres, an independent enquiry into the conduct of the security forces, from the lowest to the highest levels, and where appropriate, to subject them to penal and disciplinary sanctions.

- The Former Yugoslav Republic of Macedonia, ICCPR, A/53/40 vol. I (1998) 55 at para. 377.

The Committee expresses serious concern at ethnic violence involving the police in Gostivar on 7 July 1997, in the course of which three persons lost their lives and hundreds were wounded. It is also concerned at indications that all fair-trial guarantees were not met in dealing with local officials. These events should be thoroughly investigated by an independent body, those found responsible should be subjected to appropriate penal or disciplinary sanctions, and all necessary measures should be taken to prevent their recurrence anywhere within the country.

- Belgium, ICCPR, A/54/40 vol. I (1999) 26 at para. 69.

The establishment of institutions aimed at monitoring the observance of human rights by State authorities is commended, including the Centre for Equality and Against Racism (Centre pour l'égalité et pour la lutte contre le racisme) and the committee to monitor the police services, with jurisdiction over all branches of the police force.

- Armenia, ICCPR, A/54/40 vol. I (1999) 29 at para. 106.

Noting that the new Criminal Code provides for the abolition of the death penalty, it is recommended that the death sentences of all persons currently on death row be immediately commuted.

- Libyan Arab Jamahiriya, ICCPR, A/54/40 vol. I (1999) 32 at para. 130.

The Committee is deeply concerned about persistent allegations of systematic use of torture and cruel, inhuman or degrading treatment or punishment. The Committee takes positive note of the data offered by the delegation about investigations carried out in some cases and of punishment of those

EFFECTIVE REMEDIES - GENERAL

responsible for such acts, as well as of the indemnity given to victims. A more efficient system should be enforced for monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party is urged to ensure that all cases of alleged torture or ill-treatment are investigated by an impartial body, that the results of such investigations are published and that officials responsible for torture and ill-treatment are prosecuted and, if convicted, severely punished. Training courses on human rights should be conducted for law enforcement personnel.

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at para. 166.

Rule 4 of the *Habeas Corpus* Rules under the *Habeas Corpus* Law limits the grounds for obtaining a writ of *habeas corpus* to (a) the absence of a legal right to place a person in custody and (b) manifest violation of due process. It also requires exhaustion of all other remedies. Rule 4 impairs the effectiveness of the remedy for challenging the legality of detention and is therefore incompatible with article 9 of the Covenant. Rule 4 should be repealed and the remedy of *habeas corpus* should be made fully effective without any limitation or restriction.

- Austria, ICCPR, A/54/40 vol. I (1999) 42 at para. 185.

That the State party has no intention of adopting appropriate procedures for taking into account the Committee's Views under the Optional Protocol consistent with its obligations under article 2 of the Covenant is of concern.

- Lesotho, ICCPR, A/54/40 vol. I (1999) 51 at para. 260.

The excessive use of force by police and security forces, including shooting of suspects to prevent their flight even in cases where there is no violence on the part of the suspects, should be investigated, and the prosecution and punishment of those responsible should be ensured. Impunity for violation of human rights is incompatible with the obligations of article 2(3).

- Cambodia, ICCPR, A/54/40 vol. I (1999) 57 at paras. 300, 302, 303 and 305.

Paragraph 300

Urgent measures should be taken to strengthen the judiciary and to guarantee its independence, and to ensure that all allegations of corruption or undue pressure on the judiciary are dealt with promptly.

EFFECTIVE REMEDIES - GENERAL

Paragraph 302

A permanent and independent human rights monitoring body should be established by legislation, with adequate powers and resources to receive and investigate allegations of torture or other abuses of power by public officials.

Paragraph 303

Action should be taken without delay to prevent the further occurrence of killings by security forces, and other disappearances and deaths in custody, to investigate all such allegations, and to bring those alleged to have violated Covenant rights to trial.

Paragraph 305

Action should be taken without delay to prevent the physical and mental coercion of accused persons and the beating of detainees, the rape of women prisoners by prison guards, and the use of shackles and chains in prisons. Action should also be taken, without delay, to investigate alleged violations and bring the perpetrators to justice, to ensure that confessions obtained by force are excluded from evidence, that women prisoners are guarded only by female warders, and that there are effective procedures for making and investigating complaints by prisoners and detainees.

- Mexico, ICCPR, A/54/40 vol. I (1999) 61 at paras. 318, 321, 328 and 329.

Paragraph 318

It is a matter of the gravest concern that not all forms of torture are necessarily covered by law in all Mexican States, and that there is no independent body to investigate the substantial number of complaints regarding acts of torture and cruel, inhuman or degrading treatment. It is also a matter of concern that the acts of torture, enforced disappearances and extrajudicial executions which have taken place have not been investigated; that the persons responsible for those acts have not been brought to justice; and that the victims or their families have not received compensation.

Paragraph 321

Appropriate procedures should be established to ensure that independent investigations are conducted into allegations of violations of human rights involving members of the armed forces and the security forces and that the persons accused of such violations are brought to trial. The State should also establish effective remedies for the victims.

Paragraph 328

Effective measures should be taken to protect the security of women, to ensure that no pressure is brought to bear on them to deter them from reporting violations, such as abduction, murder, and the rape or torture of women in detention by security forces; and to ensure that all allegations of abuse are investigated and that the perpetrators are brought to justice.

EFFECTIVE REMEDIES - GENERAL

Paragraph 329

Measures should be taken to investigate allegations that women seeking employment in foreign enterprises are subjected to pregnancy tests and required to respond to intrusive personal questioning, and that some women employees have been administered anti-pregnancy drugs. Such measures should ensure that women whose rights to equality and to privacy have been violated in this way have access to remedies and to preventing such violations from recurring.

- Poland, ICCPR, A/54/40 vol. I (1999) 65 at para. 347.

In combatting domestic violence, legislation and administrative measures should be put in place to create a protective remedy in the civil courts and to provide sufficient hostels and refuges for family members suffering from domestic violence.

- Romania, ICCPR, A/54/40 vol. I (1999) 68 at para. 367.

Domestic violence cannot be resolved exclusively through penal sanctions. Appropriate action should be taken, in legislation and in practice, to provide women with access to protective measures before the courts, in order to prevent renewed violence by potential aggressors.

- Morocco, ICCPR, A/55/40 vol. I (2000) 24 at paras. 95, 107 and 115.

Paragraph 95

Investigations into the whereabouts of all persons reportedly missing should be intensified, any such persons who may still be held in detention should be released, and lists of prisoners of war should be provided to independent observers. Families should be informed about the location of the graves of disappeared persons known to be dead, the persons responsible for the disappearances or deaths should be prosecuted, and compensation should be provided to victims or their families where rights have been violated.

Paragraph 107

Firm measures should be adopted to eradicate the practice of torture and legislation should be enacted to make torture a criminal offence and to exclude the admissibility in evidence of any confession or statement obtained by torture or duress. Appropriate mechanisms should be established for independent monitoring of police detention centres and penitentiaries. All reports of torture and ill-treatment must be investigated, the persons responsible should be prosecuted, and victims of torture must be granted compensation.

Paragraph 115

EFFECTIVE REMEDIES - GENERAL

The State party should ensure that its laws are in full conformity with article 12 of the Covenant, that the laws are transparent, and that effective remedies are available to enforce the rights protected by article 12.

- Republic of Korea, ICCPR, A/55/40 vol. I (2000) 29 at paras. 154 and 155.

Paragraph 154

It is inappropriate that the State party should require the author of a communication submitted under the Optional Protocol, on which the Committee has expressed its Views, to seek a remedy through the domestic courts, by way of further appeal or a claim for compensation.

Paragraph 155

Rather than referring such cases back to the domestic courts which have already pronounced on the matter, the State party should immediately proceed to give effect to the Views expressed by the Committee.

See also:

- Cameroon, ICCPR, A/55/40 vol. I (2000) 36 at para. 224.
- Cameroon, ICCPR, A/55/40 vol. I (2000) 36 at paras. 202, 208 and 214.

Paragraph 204

The State party should ensure the prompt investigation of allegations of extrajudicial killings by security forces, the bringing to justice of responsible persons, and the compensation of victims.

Paragraph 208

To secure compliance with articles 6 and 7 of the Covenant, firm measures must be taken to limit the use of force by the police, to investigate all complaints regarding the use of force by the police and appropriate action must be taken when the use is in violation of the relevant regulations.

Paragraph 214

An independent mechanism to investigate reports of torture by police officials should be established in order to comply with article 7.

- Hong Kong Special Administrative Region (China), ICCPR, A/55/40 vol. I (2000) 40 at paras. 237, 239, 240, 247 and 248.

EFFECTIVE REMEDIES - GENERAL

Paragraph 237

It is of concern that there is no independent body established by law to investigate and monitor human rights violations and the implementation of Covenant rights.

Paragraph 239

The Independent Police Complaints Council does not have the power to ensure proper and effective investigation of complaints against the police. Investigations of police misconduct are still in the hands of the police themselves, which undermines the credibility of these investigations.

Paragraph 240

The State party should reconsider its approach on the issue of complaints against the police and should provide for independent investigation of such complaints.

Paragraph 247

That no legislative remedies are available to individuals in respect of discrimination on the grounds of race or sexual orientation is of concern.

Paragraph 248

The necessary legislation should be enacted to ensure full compliance with article 26 of the Covenant.

- Congo, ICCPR, A/55/40 vol. I (2000) 43 at paras. 268, 272 and 275.

Paragraph 268

All appropriate inquiries and investigations into summary and extrajudicial executions, disappearances and arbitrary arrests and detentions carried out by the armed forces, militias, other paramilitary groups or foreign soldiers, should be conducted. Measures necessary for bringing the perpetrators to justice and effectively protecting the right to life and to security of person should be undertaken.

Paragraph 272

Victims of rape should be given necessary support and their reintegration should be ensured. Everything possible should be done to identify and prosecute the perpetrators of these crimes.

Paragraph 275

The political desire for an amnesty for the crimes committed during the periods of civil war may lead to a form of impunity that would be incompatible with the Covenant. The texts which grant amnesty to persons who have committed serious crimes make it impossible to ensure respect for the obligations undertaken under the Covenant, especially under article 2, paragraph 3, which requires that any person whose rights or freedoms recognized by the Covenant are violated shall have an effective remedy. Amnesty laws are generally incompatible with the duty of States to investigate such acts, to guarantee freedom from such acts within their jurisdiction and to ensure that they do not

EFFECTIVE REMEDIES - GENERAL

occur in the future.

- United Kingdom of Great Britain and Northern Ireland (Jersey, Guernsey and the Isle of Man), ICCPR, A/55/40 vol. I (2000) 47 at para. 305.

The establishment of independent bodies with a mandate to review administrative decisions should be duly considered.

- Mongolia, ICCPR, A/55/40 vol. I (2000) 49 at para. 323.

Many areas of concern remain in relation to discrimination against women and the inability of women fully to enjoy Covenant rights (articles 3 and 26 of the Covenant). In particular, attention is drawn to the following concerns:

Women should be protected from maternal mortality. In particular, abortions should be safe and family planning advice and facilities should be available;

Employers who discriminate against women in private sector employment must not have effective impunity in the face of court judgements;

Persons engaged in organizing prostitution should be prosecuted. Effective measures to combat trafficking in women should be adopted;

Perpetrators of domestic violence should be prosecuted;

Violence should not need to be proven in order to obtain a conviction for rape; and

Marital rape should be an offense.

- Guyana, ICCPR, A/55/40 vol. I (2000) 53 at paras. 359, 366, 376, 379 and 380.

Paragraph 359

Allegations of extra-judicial killings and excessive use of force should be promptly investigated by an impartial body and measures should be taken to ensure the prosecution of offenders and to provide effective remedies to victims. All law enforcement officials should be thoroughly trained in international human rights standards, particularly those contained in the Covenant.

EFFECTIVE REMEDIES - GENERAL

Paragraph 366

Police and other law enforcement personnel should be trained to understand the importance of ensuring that women who are victims of violence are accorded equal protection and that preventive and punitive measures are enforced.

Paragraph 376

The availability of effective remedies should be ensured for any person whose rights under Article 19 have been violated.

Paragraph 379

The right of indigenous peoples to enjoy their own culture is threatened by logging, mining, delays in the demarcation of their traditional lands, or the demarcation of insufficient land to enable them to pursue their traditional economic activities.

Paragraph 380

Effective measures of protection should be implemented to enable members of indigenous communities to participate in decisions which affect them and to enforce their right to enjoy their rights under the Covenant.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 386, 390, 404 and 415.

Paragraph 386

The information provided by the delegation that individuals have, in principle, the right to petition the Constitutional Court in cases of alleged breach of their rights protected by the Constitution as well as by the Covenant is welcomed, but it is noted that this remedy has not been used so far.

Paragraph 390

The Criminal Code should be amended to ensure that acts of torture are indictable offences and that all allegations of torture are properly investigated and the persons responsible prosecuted (art. 7). Complaints about torture and other abuses by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. An independent system of monitoring all places of detention should be instituted with the purpose of preventing torture and other abuses of power by law enforcement officials.

Paragraph 404

The State party should ensure that existing laws relating to violence against women and trafficking are vigorously enforced; adopt effective measures to protect women; provide victims of violence and abuse with a measure of compensation and rehabilitation; and combat trafficking in all appropriate ways, including the prosecution and punishment of those responsible. Specific legislation on the

EFFECTIVE REMEDIES - GENERAL

prohibition and punishment of domestic violence and trafficking in women should be enacted.

Paragraph 415

The State party must protect journalists and human rights activists from harassment. It should ensure that journalists can exercise their profession without fear of being subjected to prosecution and libel suits for criticizing government policy or government officials. Journalists and human rights activists subjected to imprisonment in contravention of articles 9 and 19 of the Covenant should be released, rehabilitated, and given compensation pursuant to articles 9, paragraph 5, and 14, paragraph 6, of the Covenant.

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at paras. 434, 435, 446 and 450.

Paragraph 434

While the existence of a mechanism to investigate complaints made against the police force, namely the Garda Complaints Board, is welcomed, it is regretted that the Board is not fully independent, in that investigations of complaints against the Garda are often entrusted to members of the Garda without consultation with the Board. The availability of recourse to the courts to address allegedly unlawful conduct by the police does not displace the need for independent and transparent investigation of allegations of abuse.

Paragraph 435

In the context of its current review of the Garda Complaints Act of 1986, it is recommended that the State party take steps to ensure that the Garda Complaints Board is not dependent on the Garda for the conduct of investigations. Consideration should be given to the establishment of a police ombudsman. In the case of death resulting from action by members of the Garda, the State party should ensure that allegations are investigated by an independent and public process.

Paragraph 446

Despite the many improvements in prison conditions, further efforts should be made to ensure that all prisons and detention centres are brought up to the minimum standards required to ensure respect for the human dignity of detainees and to avoid overcrowding, in accordance with article 10. The Independent Prison Authority, whose establishment is envisaged in a current bill, should have power and resources to deal with complaints of abuse made by prisoners.

Paragraph 450

Remedies should be improved for victims of domestic violence.

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 469 and 496.

EFFECTIVE REMEDIES - GENERAL

Paragraph 469

The cases of persons still held under sentences handed down in 1991 by the Martial Law Courts should be reviewed by an independent and impartial body, and compensation should be paid pursuant to articles 9, paragraph 5, and 14, paragraph 6, of the Covenant, where appropriate.

Paragraph 496

While the establishment of a Human Rights Commission in the Ministry of the Interior and of a Human Rights Committee in the National Assembly is noted, the State party is encouraged to establish a truly independent and effective mechanism to ensure effective remedies as required by article 2, paragraph 3, of the Covenant.

- Australia, ICCPR, A/55/40 vol. I (2000) 71 at paras. 502, 513, 515 and 525.

Paragraph 502

The action taken by the State party to implement the Views of the Committee in the case of communication No. 488/1992 (*Toonen v. Australia*) by enacting the necessary legislation at the federal level is welcomed.

Paragraph 513

The State party should intensify its efforts to address the tragedies resulting from the previous policy of removing indigenous children from their families, so that the victims themselves and their families will consider that they have been afforded a proper remedy (arts 2, 17 and 24).

Paragraph 515

The State party should take measures to give effect to all Covenant rights and freedoms and to ensure that all persons whose Covenant rights and freedoms have been violated have an effective remedy (art. 2).

Paragraph 525

The duty to comply with Covenant obligations should be secured in domestic law. Persons who claim that their rights have been violated should have an effective remedy under that law.

See also:

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at para. 433.
- Trinidad and Tobago, ICCPR, A/56/40 vol. I (2001) 31 at paras. 72(4), 72(5), 72(10), 72(12), 72(14) and 72(15).

EFFECTIVE REMEDIES - GENERAL

Paragraph 72(4)

Improvements to the remedies provided in cases of domestic violence, together with specialized personnel now available to assist victims, including the Domestic Violence Unit set up by the Ministry of Culture and Gender Affairs, are commended.

Paragraph 72(5)

The institution of the independent Police Complaints Authority is noted with satisfaction and the Committee looks forward to rapid proclamation of the Act extending its powers.

Paragraph 72(10)

Concern is expressed about the lack of remedies under domestic legislation, including the Constitution, for victims of discrimination within the full ambit of articles 2.3 and 26 of the Covenant. The State party should ensure that remedies are available for the full range of discriminatory situations falling within the protection given by articles 2.3 and 26.

Paragraph 72(12)

In relation to sexual harassment in the workplace, the judicial decision in *Bank Employees' Union v. Republic Banks Ltd, Trade Dispute 17 of 1995* is noted, where it was held that a person had been properly dismissed from his employment where his conduct, on the facts of the case, was properly classified as sexual harassment. The adequacy of judicial remedy should be kept under review and legislation passed if necessary.

Paragraph 72(14)

That problems relating to the police force (such as corruption, brutality, abuse of power and obstacles placed in the way of police personnel who seek to correct such practices), identified over the last decade have still not been rectified is regretted. That there is little reduction in the numbers of complaints of harassment and battery submitted in 1999 and 2000 is of concern. The Plan of Action now in preparation should reinforce reforms already made and ensure that the culture of the force genuinely becomes one of public service; dereliction of duty, harassment and battery (among other things) by police officers should be the subject of swift disciplinary or criminal proceedings (arts. 2.1, 2.2. and 7).

Paragraph 72(15)

The Committee supports the expressed concern of the Trinidad and Tobago Police Complaints Authority about the inadequacy of reports from the Police Complaints Division and failure of that Division adequately to report on continuing complaints in important categories. The Complaints Division should improve the contents of its reports and accelerate its reporting process so as to enable the Police Complaints Authority thoroughly to fulfil its statutory functions and so that violations of articles 7 and 9.1 may be properly investigated.

EFFECTIVE REMEDIES - GENERAL

- Denmark, ICCPR, A/56/40 vol. I (2001) 34 at paras. 73(4), 73(5) and 73(14).

Paragraph 73(4)

The State party's efforts to educate its population, and in particular to train the police, in human rights are welcomed. That the State party changed the rules and practices on the use of police dogs in crowd control is appreciated.

Paragraph 73(5)

The Government's new rules on examination of complaints concerning the police are noted with appreciation.

Paragraph 73(14)

The Committee is concerned to assure that persons whose rights under the Covenant are violated have an effective remedy in all cases. In particular it should ensure that, in order to secure the victim's right to a remedy, the Covenant may be invoked before Danish authorities and courts (art. 2).

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at paras. 74(4), 74(5), 74(9), 74(11), 74(13) and 74(15).

Paragraph 74(4)

The operation of a number of institutions and programmes designed to serve as a channel of redress for victims of past abuses, including the Historical Reparation Programme, the National Commission on the Disappearance of Persons and the National Commission for the Right to an Identity is noted with satisfaction. The efforts being made to provide financial and other compensation to victims of arbitrary detention and the families of persons who died or disappeared under the military regime are appreciated.

Paragraph 74(5)

Recent developments in which some of those responsible for the most serious violations of human rights, including forced disappearances, torture and removal of children from their parents for purposes of illegal adoption or trafficking, are being brought to trial, are welcomed. The establishment of a mechanism, without time restriction on its activities, to restore the identities of children who were forcibly removed from their families is particularly welcomed.

Paragraph 74(9)

Despite positive measures taken recently to overcome past injustices, including the repeal in 1998 of the Law of Due Obedience and the *Punto Final* Law, many persons whose actions were covered by these laws continue to serve in the military or in public office, with some having enjoyed promotions in the ensuing years. The atmosphere of impunity for those responsible for gross human rights violations under military rule is of concern. Gross violations of civil and political rights during military

EFFECTIVE REMEDIES - GENERAL

rule should be prosecutable for as long as necessary, with applicability as far back in time as necessary to bring their perpetrators to justice. Rigorous efforts should continue to be made in this area and measures should be taken to ensure that persons involved in gross human rights violations are removed from military or public service.

Paragraph 74(11)

That prison conditions fail to meet the requirements of articles 7 and 10 of the Covenant is of deep concern. The severe overcrowding and the poor quality of basic necessities and services, including food, clothing and medical care, are incompatible with the right to be treated with humanity and with respect for the inherent dignity of the human person to which all persons are entitled. While noting the plans under way to construct new prison facilities, immediate attention should be paid to the need to provide adequately for the basic necessities of all persons deprived of their liberty.

Paragraph 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.

Paragraph 74(15)

The high incidence of violence against women, including rape and domestic violence, is of particular concern. Sexual harassment and other manifestations of discrimination in both the public and private sectors are also a matter of concern. Information on these matters is not systematically maintained, women have a low awareness of their rights and the remedies available to them, and complaints are not being adequately dealt with. A large-scale information campaign should be undertaken to promote awareness among women of their rights and the remedies available to them.

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at paras. 75(5), 75(6) and 75(10).

Paragraph 75(5)

That individuals may submit appeals directly to the Constitutional Court could additionally strengthen the remedies available to them in the event of violations of the Covenant.

Paragraph 75(6)

The establishment of a ministry with responsibility for human rights and of a 14-member national human rights commission as an official body to promote and protect human rights with jurisdiction to consider applications from individuals is noted. The creation of an interministerial commission to identify and remove discriminatory legislative provisions, particularly with regard to women is

EFFECTIVE REMEDIES - GENERAL

welcomed.

Paragraph 75(10)

The lack of safeguards and effective remedies available to individuals during a state of emergency is of concern. The State party should establish effective remedies in legislation that are applicable during a state of emergency.

- Peru, ICCPR, A/56/40 vol. I (2001) 45 at paras. 76(16) - 76(18).

Paragraph 76(16)

That there is a growing number of complaints of systematic harassment and death threats against journalists intended to undermine freedom of expression is noted with concern. The State party is requested to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression, to investigate all complaints which have been filed and to bring the persons responsible to justice.

Paragraph 76(17)

The methods used by the State party to take control of communications media away from persons critical of the Government, including stripping one of them of their nationality, are deplored. The State party is requested to eliminate these situations, which affect freedom of expression, in accordance with article 19 of the Covenant, and to make effective remedies available to those concerned.

Paragraph 76(18)

It is deplored that, of the four opposition members of Parliament who were victims of repeated acts of intimidation and about whom it requested reports from the Government, vague replies were given only about Mr. Gustavo Molme Llona, who has since died; no explanation was given about the three others, Javier Díez Canseco, Henry Pease García, Jorge del Castillo and some of their co-workers, and not a single reference was made to the investigations conducted in order to find the persons responsible. The intimidation of members of Parliament, which prevents them from representing their constituents and exercising their functions freely and independently, must cease immediately and acts of intimidation must be investigated and the persons responsible punished.

- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at paras. 77(6)-77(8), 77(13), 77(14), 77(16), 77(17) and 77(23).

Paragraph 77(6)

The reports of disappearances are of grave concern, despite the fact that such acts have been defined as crimes under the new legislation. The lack of action by the State to deal with disappearances that

EFFECTIVE REMEDIES - GENERAL

occurred in 1989 is also of concern. The delegation's statement that investigations of the disappearances are being pursued is unsatisfactory. Taking into account the provisions of articles 6, 7 and 9 of the Covenant, the State party should give special priority to rapid and effective investigations designed to determine the whereabouts of the disappeared persons and those responsible for disappearances. The State party should also take all necessary measures to prevent disappearances, including adoption of the legislation described in article 45 of the Constitution.

Paragraph 77(7)

The many reports of extrajudicial executions and the failure of the State party to react to them are matters of grave concern. The State party should conduct investigations to identify those responsible for extrajudicial executions and bring them to justice. It should also take the necessary measures to prevent the occurrence of such violations of article 6 of the Covenant.

Paragraph 77(8)

The reports of torture and excessive use of force by the police and other security forces in breach of article 7 of the Covenant; the State party's apparent delay in responding to such occurrences; and the absence of independent mechanisms to investigate the reports in question are of deep concern. The right of recourse to the courts is not a substitute for such mechanisms. The State party should establish an independent body empowered to receive and investigate all reports of excessive use of force and other abuses of authority by the police and other security forces, to be followed, where appropriate, by prosecution of those who appear to be responsible for them. The State party is also urged to pass laws giving effect to the prohibition of torture and cruel, inhuman and degrading treatment laid down in article 7 of the Covenant and article 46 of the Constitution, and strengthen the human rights education programmes for all State officials whose functions are related to the treatment of detainees.

Paragraph 77(13)

The situation of the judiciary in Venezuela, which is still undergoing reform, is of particular concern. An extended reform process threatens the independence of the judiciary, given the possibility that judges could be removed as a result of the performance of their duties, thus infringing article 2, paragraph 3, and article 14 of the Covenant. The reform of the judiciary must not continue.

Paragraph 77(14)

Concern about the independence of the judiciary extends to the information, delivered by the delegation, that article 275 of the Constitution empowers the National Ethics Council (*Consejo Moral Republicano*) comprising the Ombudsman, the Attorney-General and the Comptroller-General to issue warnings to judges, even those of the Supreme Court, and impose sanctions if those warnings are not heeded. The State party should carry out a careful review of the enabling bill for article 275 of the Constitution in order to safeguard the independence of the judiciary in accordance with article 2, paragraph 3, and article 14 of the Covenant.

EFFECTIVE REMEDIES - GENERAL

Paragraph 77(16)

The information on trafficking in women to Venezuela, especially from neighbouring countries, and the lack of information from the delegation on the extent of the problem and action to combat it, are of deep concern. Preventive measures should be taken to eliminate the trafficking in women in order to comply with the provisions of articles 7 and 8 of the Covenant and set up rehabilitation programmes for the victims. The laws and policies of the State party should provide protection and support for the victims.

Paragraph 77(17)

The level of violence against women is of concern, including the many reported cases of kidnapping and murder that have not resulted in arrests or prosecution of those responsible. The many allegations of rape or torture of women in custody by members of the security forces, offences such women do not dare to report, are also of concern. All the foregoing gives rise to serious concerns in the light of articles 6 and 7 of the Covenant. The State party should take effective measures to guarantee women's safety, ensure that no pressure is put on them to dissuade them from reporting such violations, and ensure that all allegations of abuses are investigated and that those committing such acts are brought to justice.

Paragraph 77(23)

The lack of a wide-ranging law prohibiting discrimination in private-sector areas such as employment and housing is of concern. Pursuant to article 2, paragraph 3, and article 26 of the Covenant, the State party has a duty to protect persons against such discrimination. The State party should promulgate a law prohibiting all discrimination and providing effective recourse for all persons against violations of their right to non-discrimination.

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at paras. 78(9) and 78(10).

Paragraph 78(9)

It is noted with concern that, despite being prohibited by the Constitution (art. 8.1), torture is widespread, occurring in prisons and elsewhere, that not all its forms are classified as crimes under the law and that no independent body exists to investigate the many complaints of torture and cruel, inhuman or degrading treatment. Reports that acts of torture have not been investigated, that the perpetrators of those acts have in the majority of cases not been brought to trial and that victims and their families have not been compensated are also cause for concern. The State party should take prompt action to comply fully with article 7 of the Covenant and to have violations thereof investigated so that the culprits may be tried and punished by ordinary courts and redress provided.

Paragraph 78(10)

The fact that the National Police has its own judicial body, separate from that established by the Constitution, to try crimes and offences by its members, is deplored; this is incompatible with the

EFFECTIVE REMEDIES - GENERAL

principle of equality before the law protected by articles 14 and 2, paragraph 3, of the Covenant. It is also observed that, although the police is a civilian body legally subordinate to the Department of the Interior and Police, in practice it is subject to military authority and discipline, to the extent that the chief of police is a general of the armed forces on active duty. The State party should ensure that the jurisdiction of the police tribunals is restricted to internal disciplinary matters and that their powers to try police officers accused of common crimes are transferred to the ordinary civilian courts.

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at paras. 79(7), 79(8), 79(19), 79(24), 79(27) and 79(28).

Paragraph 79(7)

The State party should ensure that all allegations of torture are properly investigated and the persons responsible prosecuted. Complaints about torture and other forms of abuses by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. The State party should institute an independent system of monitoring and checking all places of detention and penal institutions on a regular basis with the purpose of preventing torture and other abuses of power by law enforcement officials. Free access to lawyers, doctors and family members should be guaranteed immediately after the arrest and during all stages of detention.

Paragraph 79(8)

It is appreciated that the recently established Constitutional Court delivered a judgement holding that statements made under duress would not be admissible in evidence. The assurance by the State party's delegation that any allegation of torture by a defendant will lead to an immediate discontinuation of the case and a separate examination of the truthfulness of the allegation is noted. However, allegations of the continued use of torture and other forms of inhuman treatment by law enforcement officials, particularly for the purposes of extorting confessions, in violation of article 7 and article 14, paragraph 3(g), of the Covenant, are of concern. Allegations that judges refuse to take into account any evidence provided by the accused with regard to his/her treatment by law enforcement officials is also of concern. The State party must ensure that all allegations of ill-treatment by public officials, which are brought before the courts by detainees, are investigated by the presiding judge and the persons responsible prosecuted. The State party must ensure that no one is compelled to testify against himself or herself or to confess guilt.

Paragraph 79(19)

The prevalence of violence against women, including domestic violence, is of grave concern. The State party should take effective measures to combat violence against women, including marital rape, and ensure that violence against women constitutes an offence punishable under criminal law.

EFFECTIVE REMEDIES - GENERAL

Paragraph 79(24)

Provisions of the Freedom of Conscience and Religion Organisations Act that require religious organisations and associations to be registered to be entitled to manifest their religion and beliefs are of concern. Also of concern is article 240 of the Penal Code, which penalizes the failure of leaders of religious organisations to register their statutes. It is strongly recommended that the State party abolish the said provisions, which are not in conformity with the provisions of article 18, paragraph 1 and 3, of the Covenant. Criminal procedures initiated on the basis of these provisions should be discontinued and convicted persons pardoned and compensated.

Paragraph 79(27)

While the establishment of a 24-hour confidential telephone line through which any citizen can report improper actions by officials is noted, the intimidation and harassment of individuals, particularly those, including human rights defenders, who complain about ill-treatment and torture by public officials (articles 7 and 10 of the Covenant) continues to be of concern. The State party must protect all individuals from harassment and ensure that persons whose rights and freedoms have allegedly been violated have an effective remedy in accordance with article 2, paragraph 3, of the Covenant.

Paragraph 79(28)

While the fact that the Covenant takes priority over national legislation and its provisions can be directly invoked before the courts is welcomed, no relevant case has as yet been brought before the courts. The State party should make serious efforts to disseminate knowledge of the provisions of the Covenant among judges to enable them to apply the Covenant in relevant cases and among lawyers and the public to enable them to invoke its provisions before the courts (article 2 of the Covenant).

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at paras. 80(7), 80(10), 80(15), 80(19) and 80(23).

Paragraph 80(7)

Under the Croatian Constitution international treaties, including the Covenant, have status with legal force superior to domestic legislation, and most Covenant rights have also been specifically incorporated in the Constitution. However, the judiciary is not generally trained in international human rights law, with the result that in practice there is very little direct enforcement of Covenant rights. The State party should intensify its efforts to educate judges and lawyers about the Covenant and its implications for the interpretation of the Constitution and domestic legislation so as to ensure that all actions of the State party, whether legislative, executive or judicial, will be in accordance with its obligations under the Covenant.

Paragraph 80(10)

EFFECTIVE REMEDIES - GENERAL

While the establishment of specialised departments for the investigation of war crimes in the Ministry of the Interior is welcomed, it is of deep concern that many cases involving violations of articles 6 and 7 of the Covenant, committed during the armed conflict, including the 'Storm' and 'Flash' operations, have not yet been adequately investigated, and that only a small number of the persons suspected of involvement in those violations have been brought to trial. Although the declared policy of the present government to carry out investigations, irrespective of the ethnic identity of those suspected, is appreciated, it is regretted that the Committee was not provided with detailed information on the number of prosecutions brought, the nature of the charges and the outcome of the trials. The State party is under an obligation to investigate fully all cases of alleged violations of articles 6 and 7 and to bring to trial all persons who are suspected of involvement in such violations. Towards this end, the State party should proceed, as a matter of urgency, with the enactment of the draft law on the establishment of specialised trial chambers within the major county courts, specialised investigative departments, and a separate department within the Office of the Public Prosecutor for dealing specifically with the prosecution of war crimes.

Paragraph 80(15)

While recent efforts to simplify procedures and remove obstacles in the way of those wishing to return to Croatia, in particular displaced persons of Serbian ethnicity, are noted, the number of cases which are still outstanding and the length of time these persons are having to wait for resolution of their cases are matters of concern. The State party should ensure that no difficulties are put in the way of persons who left Croatia as a result of the armed conflict, in exercising their right, under article 12, paragraph 4, of the Covenant to return to their own country. The deployment of sufficient resources towards providing those persons, who have a right under the Covenant to return to Croatia, with accommodation must be a priority with the Government party as it is essential to render enjoyment of this right meaningful.

Paragraph 80(19)

The lack of a comprehensive law prohibiting discrimination in private-sector areas such as employment and housing is of concern. Pursuant to article 2, paragraph 3, and article 26 of the Covenant, the State party has a duty to protect persons against such discrimination. The State party should promulgate a law prohibiting all discrimination and providing effective recourse for all persons against violations of their right to non-discrimination.

Paragraph 80(23)

The apparently low level of awareness amongst the public of the provisions of the Covenant and the Optional Protocol procedure is of concern. The State party should publicise the provisions of the Covenant and the availability of the individual complaint mechanism provided in the Optional Protocol. It should consider the means by which it can give effect to the Views of the Committee in the cases coming before it.

EFFECTIVE REMEDIES - GENERAL

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at paras. 81(5), 81(7), 81(10), 81(11) and 81(22).

Paragraph 81(5)

The status of the Covenant in the State party's internal legal framework is noted as are the assurances by the State party's delegation, without adding further details or citing precise cases, that the Covenant may be directly invoked before Syrian courts. That the provisions of the Constitution of the Syrian Arab Republic frequently refer to the law is also noted. The law, however, rather than being an additional guarantee of the rights and freedoms proclaimed in the Constitution and ensuring that the provisions of the Covenant are given full effect, often tends to restrict the scope of application of the Covenant's provisions. The State party should review its legislation in order to render it compatible with all the provisions of the Covenant.

Paragraph 81(7)

The information given by the State party concerning the conditions for proclaiming a state of emergency is still not sufficiently precise. It remains of concern that some of the provisions of the 22 December 1962 Legislative Decree are too vague and imprecise and do not appear to be compatible with the requirements of article 4 of the Covenant, and that the legislation does not provide remedies against measures limiting citizens' fundamental rights and freedoms. The State party should take appropriate steps to bring its state of emergency legislation fully into line with the requirements of article 4 of the Covenant.

Paragraph 81(10)

The allegations of extrajudicial executions and disappearances, which the delegation failed to give sufficient and precise explanations and information on are of deep concern. These allegations concern the disappearance of many Syrian nationals and of Lebanese nationals arrested in Lebanon by Syrian forces, then transferred to the Syrian Arab Republic. The State party is urged to establish an independent commission of inquiry on the above-mentioned disappearances. This commission should publish the results of its investigations within an appropriate time-frame, and the State party should ensure that its conclusions are acted upon, including, where applicable, through the indictment of law enforcement personnel identified in the results of such an investigation.

Paragraph 81(11)

The absence of any independent oversight body and of non-governmental organizations in a position to consider the implementation of the human rights guaranteed by the Constitution and governed by law is of concern. The State party should take the necessary measures to arrange for the monitoring of respect for human rights in its territory by an independent agency.

Paragraph 81(22)

The discretionary power of the Minister of the Interior to order the expulsion of any alien, without safeguards, if security and the public interest so require, poses problems with regard to article 13 of

EFFECTIVE REMEDIES - GENERAL

the Covenant, particularly if the alien entered Syrian territory lawfully and has obtained a residence permit. Protests lodged by the expelled alien with Syrian diplomatic and consular missions abroad are not a satisfactory solution in terms of the Covenant. Before expelling an alien, the State party should provide him or her with sufficient safeguards and an effective remedy, in conformity with article 13 of the Covenant.

- The Netherlands, ICCPR, A/56/40 vol. I (2001) 76 at paras. 82(4) and 82(8).

Paragraph 82(4)

The establishment of the Equal Treatment Commission, set up by the Equal Treatment Act, as an independent body responsible for investigating and assessing cases of alleged discrimination, is welcomed.

Paragraph 82(8)

Concern remains that, six years after alleged involvement of members of the State party's peacekeeping forces in the events surrounding the fall of Srebrenica, Bosnia-Herzegovina, in July 1995, the responsibility of the persons concerned has yet to be publicly and finally determined. In respect of an event of such gravity, it is of particular importance that issues relating to the State party's obligations to ensure the right to life be resolved in an expeditious and comprehensive manner (articles 2 and 6 of the Covenant). The State party should complete its investigations as to the involvement of its armed forces in Srebrenica as soon as possible, publicise these findings widely and examine the conclusions to determine any appropriate criminal or disciplinary action.

- The Netherlands (Antilles), ICCPR, A/56/40 vol. I (2001) 76 at para. 82(18).

While welcoming the establishment of a Police Conduct Complaints Committee to receive complaints from members of the public and the establishment of a committee to control the integrity of the police, it is of concern that the said authorities do not have the capacity to issue binding determinations. To act effectively and independently of the Executive, of which the police is a part, the authorities should have the competence to issue binding conclusions as to appropriate remedies or disciplinary measures as the case may be. The State party should review the limitations on the Authority's powers in the light of the Committee's observations.

- The Netherlands (Aruba), ICCPR, A/56/40 vol. I (2001) 76 at paras. 82(23) and 82(24).

Paragraph 82(23)

Domestic workers, who are often particularly vulnerable to exploitation as non-Aruban nationals, should have strengthened protection under Aruba's labour laws in order to achieve compliance with

EFFECTIVE REMEDIES - GENERAL

the provisions of article 26 of the Covenant. A formal right to sue for breach of contract may well be insufficient in the circumstances of the specific employer-employee relationship. The State party should consider the most appropriate way to ensure adequate legal protection for domestic workers, for example by extending the provisions of the Labour Ordinance to cover this class of workers.

Paragraph 82(24)

It is disturbing that an appropriate police complaints authority in Aruba is still not in place, after the State party had admitted that the system established under the Police Complaints Decree did “not function properly in practice” (articles 7 and 26 of the Covenant). The revised Decree should be amended and brought into force.

- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at paras. 83(6), 83(7), 83(11), 83(14) and 83(25).

Paragraph 83(6)

The apparent absence of procedures for dealing with the implementation of the Views of the Committee under the Optional Protocol is of concern. The position adopted by the State party in the cases of Simunek (516/1992) and Adam (586/1994), regarding the restitution of property or compensation under Act 87/91 is deeply regretted. The State party’s response to the Committee’s decision that the pre-condition of Czech citizenship to restitution or compensation under Act 87/91 was discriminatory and in violation of article 26 of the Covenant is also regretted. A decision by the Constitutional Court on the constitutionality of the relevant law cannot exonerate the State party from its obligations under the Covenant (article 2; Optional Protocol, articles 1 and 4). The State party should reconsider its present law regarding the right to seek restitution of property or compensation. It should also put in place procedures to deal with Views of the Committee under the Optional Protocol.

Paragraph 83(7)

The lack of independent mechanisms for monitoring the practical implementation of rights is of concern. While the creation of the institution of the Ombudsman for investigating individual complaints is welcomed, it is noted that his or her powers are limited to recommendations covering the public sector. Furthermore, the Commissioner on Human Rights is a government official and the Council for Human Rights an advisory body; they have no mandate to deal with individual complaints relating to human rights (art. 2). The State party should adopt measures to establish effective independent monitoring mechanisms for implementation of Covenant rights, particularly in the area of discrimination.

Paragraph 83(11)

The violence and harassment by some groups with respect to the Roma minority, and the failure on the part of the police and judicial authorities to investigate, prosecute and punish hate crimes remains

EFFECTIVE REMEDIES - GENERAL

of concern (arts. 2, 20, 26). All necessary measures should be taken to combat racial violence and incitement, provide proper protection to Roma and other minorities, and ensure adequate investigation and prosecution of cases of racial violence and incitement to racial hatred.

Paragraph 83(14)

Reports of domestic violence are of concern. While welcoming public information campaigns and training of police, the absence of specific protection in law and in practice is of concern (arts. 3, 9, 36). The State party should adopt a policy and a legal framework necessary to combat domestic violence. Specifically, it should provide a framework for protection of a spouse who is subjected to violence or threats of violence.

Paragraph 83(25)

The apparently low level of awareness amongst the public of the provisions of the Covenant and the Optional Protocol procedure is of concern (art. 2). The State party should publicize the provisions of the Covenant and the availability of the individual complaint mechanism provided in the Optional Protocol so as to increase public awareness.

- Monaco, ICCPR, A/56/40 vol. I (2001) 89 at paras. 84(6) and 84(13).

Paragraph 84(6)

It is noted that there is no national human rights commission and that there are no plans to establish one. The State party should consider establishing such an independent institution for the protection of human rights.

Paragraph 84(13)

It is regretted that domestic legislation does not provide for any specific penalty for racial discrimination (article 26). Legislation should be adopted that provides for specific penalties for racial discrimination.

- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at paras. 85(9), 85(13), 85(14), 85(18) and 85(24).

Paragraph 85(9)

That the administration of justice has been extended to many municipalities in the country through the appointment of justices of the peace, some of whom are bilingual and who have criminal jurisdiction, is considered positive.

Paragraph 85(13)

Reports of human rights violations, particularly gross and systemic violations of the right to life,

EFFECTIVE REMEDIES - GENERAL

liberty and security of person, are of grave concern. Reports of disappearances in the State party, both the most recent reports and those in the past are of particular concern. The information supplied by the delegation that all such situations are being investigated is not satisfactory. Taking into account the provisions of articles 6, 7 and 9 of the Covenant, the State party should give special priority to investigating and bringing to justice the perpetrators of human rights violations, including police and military personnel. The perpetrators of such acts must be tried and punished; mere separation from service or dismissal from the army is not sufficient. All necessary measures should be taken to prevent the occurrence of such acts.

Paragraph 85(14)

The many reports of, and the State party's failure to provide answers about, extrajudicial executions allegedly carried out by former members of the military and paramilitary forces and attributed to ordinary criminals are of deep concern. These acts are all contrary to article 6 of the Covenant. The State party should conduct investigations to identify those responsible for extrajudicial executions and bring them to justice. It should also take the necessary measures to prevent the occurrence of such violations of articles 6 and 7 of the Covenant.

Paragraph 85(18)

The elimination of the right of persons sentenced to death to seek pardon or commutation of the sentence, as recognized in article 6, paragraph 4, of the Covenant is of concern. The information supplied by the delegation that, despite the existence of that Act, the President of the Republic has exercised the right to grant pardon on the basis of the precedence of international treaties over ordinary laws is noted. The State party should guarantee any person sentenced to death the right to seek pardon or commutation of sentence by bringing the legislation into line with the obligations of the Covenant and adopting provisions to ensure that the right to seek pardon may be exercised.

Paragraph 85(24)

Concern is expressed about the continued existence of a legal provision exempting a rapist from any penalty if he marries the victim and about the continued requirement in the legislation that a woman must be "honest" for that offence to be held to have been committed. This legislation, which is incompatible with articles 3, 23, 26 and 2(3) of the Covenant, should be repealed immediately.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at paras. 86(10) and 86(21).

Paragraph 86(10)

It is of concern that, in addition to judicial protection, there is no independent national institution for the promotion and protection of human rights. Article 69 of the Constitution and the Law on Complaint and Petition granting every citizen the right to submit complaints about the encroachment of his or her rights is no substitute for such an independent monitoring body. The State party should

EFFECTIVE REMEDIES - GENERAL

consider the establishment of a national human rights institution (article 2 of the Covenant).

Paragraph 86(21)

It is regretted that there is no law or formal procedure governing the expulsion of aliens from the State party's territory. Before expelling an alien, the State party should provide him or her with sufficient safeguards and an effective remedy, in conformity with article 13 of the Covenant. The State party is urged to consider the adoption of legislation governing the expulsion of aliens, which should be consistent with the principle of *non-refoulement*.

ICESCR

- United Kingdom of Great Britain and Northern Ireland (Dependant Territories), ICESCR, E/1995/22 (1994) 52 at para. 295.

Procedures should be established to allow an appropriate body to adjudicate on complaints of infringement of the rights under the Covenant, and the desirability of establishing a human rights commission should be considered.

- Philippines, ICESCR, E/1996/22 (1995) 30 at paras. 129 and 133.

Paragraph 129

The revision of all legislation which is inconsistent with the full enjoyment of equal rights for women is urged. Stronger judicial and other remedies should be made available to redress the grievances of women who suffer from domestic violence.

Paragraph 133

The provisions of the Covenant should be used as a supplementary guide to the interpretation of relevant domestic legislation. All relevant domestic courts, tribunals and administrative and other bodies should ensure that their decisions are consistent with the obligations contained in the Covenant. In this regard, the provision of training programmes for the judiciary, the legal profession and other relevant bodies concerning the application of the Covenant is recommended.

- Sweden, ICESCR, E/1996/22 (1995) 35 at para. 146.

The Government is urged to intensify its efforts to combat child pornography and domestic violence against women, as well as its measures for monitoring and registering all such cases. Attention is drawn to the need to ensure the imposition of appropriate penalties for such offences.

EFFECTIVE REMEDIES - GENERAL

- Ukraine, ICESCR, E/1996/22 (1995) 50 at paras. 263 and 272.

Paragraph 263

Grave concern is expressed at the lack of practical measures aimed at creating adequate working conditions for women and at eliminating discrimination against them. Concern is expressed about the possible discriminatory effects of imposing different retirement ages for men and women, particularly in market economies where one's standard of living and professional fulfilment depend largely on one's employment. The violence perpetrated against women, the generally low professional qualifications of women and their consequently high representation among low-paid workers and the unemployed is of concern. The Government and the authorities as a whole have not made all necessary efforts to understand and face the phenomenon of discrimination, by collecting and analysing relevant data, by trying to eliminate the phenomenon through legislative measures and education, and by providing protection to victims of discrimination and violence against women.

Paragraph 272

Specific legislative measures should be taken to prohibit all forms of gender-based discrimination and efforts should be made, including through the educational system, to promote awareness and understanding of the human rights of women. The establishment of institutions to provide protection and assistance to victims of violence and discrimination is recommended.

- Dominican Republic, ICESCR, E/1997/22 (1996) 44 at para. 223.

It is noted with regret that, although in law United Nations human rights treaties become part of Dominican law upon ratification, in practice the judiciary does not apply these international treaties.

- Portugal (Macau), ICESCR, E/1997/22 (1996) 48 at para. 259.

It is recommended that appropriate measures be taken to secure the economic, social and cultural rights of disabled persons, particularly through funding for special programmes aimed at helping the physically and mentally disabled to gain better access to employment, education and public facilities.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICESCR, E/1997/22 (1996) 58 at paras. 335 and 355-357.

Paragraph 335

The Committee reiterates its serious concerns that the provisions of the International Covenant on Economic, Social and Cultural Rights continue to be excluded from domestic law, which already

EFFECTIVE REMEDIES - GENERAL

incorporates the provisions of the International Covenant on Civil and Political Rights; and that the Government continues to object to the establishment of a human rights commission.

Paragraph 355

Every possible measure should be taken to develop a fair and open one-way permit-approval mechanism in order to facilitate rapid family reunification.

Paragraph 356

More effective measures should be undertaken to retrain those who have lost employment or are underemployed as a result of economic restructuring.

Paragraph 357

The Sex Discrimination Ordinance should be amended to include provisions on reinstatement in employment and to remove the current maximum amount for recovery compensation.

- Zimbabwe, ICESCR, E/1998/22 (1997) 24 at para. 78.

Attention is drawn to the obligations of the State party to ensure that its undertakings under the Covenant are appropriately reflected in domestic law and policy, and the Government is urged to provide appropriate access to the courts to uphold the relevant rights.

- Russian Federation, ICESCR, E/1998/22 (1997) 27 at paras. 101, 104 and 118.

Paragraph 101

Women appear to be disproportionately affected by unemployment and little concrete action has been taken by the State party to discourage discriminatory dismissal or hiring on the basis of sex or to provide meaningful remedies to the victims of such discrimination.

Paragraph 104

The State party has not taken adequate steps or devoted sufficient funding to find ways of addressing the following issues:

- (a) Dangerous working conditions in many enterprises, including use of dangerous and out-of-date technology, lack of protection for workers and excessively long hours of work;
- (b) The high rate of serious industrial accidents, including an excessive number resulting in death;
- (c) Refusal by some enterprises to compensate workers in cases of workplace injuries;

EFFECTIVE REMEDIES - GENERAL

- (d) An inadequate system for the reporting of unsafe working conditions and accidents, including the absence of a legal framework which protects workers, whether unionized or not;
- (e) Inadequate funding for the labour inspectorate to conduct sufficient inspections to deter and sanction non-compliance by employers;
- (f) The large number of illegal dismissals, which in practice are without remedy;
- (g) The development of large-scale child labour;
- (h) The refusal of some employers to recognize or deal with new, “alternative” unions and the fact that some employers take adverse action, including dismissal, against union activists.

Paragraph 118

Legislation should be adopted to protect women victims of domestic violence, and specific programmes should be put in place to assist such victims. The perpetrators of such acts should be brought to justice.

- Dominican Republic, ICESCR, E/1998/22 (1997) 43 at para. 231.

The Government should pursue its policies designed to achieve full equality between men and women, in all areas of economic, social and cultural life. In particular, a thorough review of domestic legislation should be undertaken with a view to eliminating any remaining discriminatory legal provisions, especially with respect to the labour, family, criminal, civil and social security laws; specific remedies should be made available to women victims of sexual discrimination; and information and education campaigns should be carried out. Positive measures should also be taken to promote the participation of women, on an equal basis with men, in public life, on the labour market and in social and cultural activities.

- Iraq, ICESCR, E/1998/22 (1997) 50 at paras. 253 and 274.

Paragraph 253

While noting that the effect of sanctions and blockades hampers the full implementation of certain rights under the Covenant, it is underlined that the State party remains responsible for implementing its obligations under the Covenant “to the maximum of its available resources”, in accordance with article 2, paragraph 1.

Paragraph 274

With respect to discrimination against women, it is recommended that the Government pursue its

EFFECTIVE REMEDIES - GENERAL

policies designed to achieve full equality between men and women in all areas of economic, social and cultural life. In particular, a thorough review of domestic legislation should be carried out in order to eliminate any remaining discriminatory legal provisions, specific remedies should be made available to women victims of sexual discrimination, and information and education campaigns should be carried out to that end.

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1998/22 (1997) 56 at paras. 294 and 316.

Paragraph 294

The failure to incorporate the right to strike into domestic law constitutes a breach of article 8 of the Covenant. The common-law approach recognizing only the freedom to strike, and the concept that strike action constitutes a fundamental breach of contract justifying dismissal, is not consistent with protection of the right to strike. The proposal to enable employees who go on strike to have a remedy before a tribunal for unfair dismissal is not satisfactory. Employees participating in a lawful strike should not *ipso facto* be regarded as having committed a breach of an employment contract. The legally accepted practice of allowing employers to differentiate between union and non-union members by giving pay raises to employees who do not join a union is incompatible with article 8 of the Covenant.

Paragraph 316

It is recommended that consideration be given to requiring that a human rights assessment or impact statement be made an integral part of every proposed piece of legislation or policy initiative on a basis analogous to environmental impact assessments or statements.

- Azerbaijan, ICESCR, E/1998/22 (1997) 61 at para. 332.

The importance of an independent judiciary, ensured not only by constitutional declaration, but in fact by guarantees accorded to magistrates, in order to ensure the exercise of all human rights, in particular economic, social and cultural rights, and the availability of effective remedies in case of violation, is stressed.

- Saint Vincent and The Grenadines, ICESCR, E/1998/22 (1997) 72 at paras. 421 and 431.

Paragraph 421

Concern is expressed about the implementation and protection of those rights recognized in the Covenant which are not incorporated in the Constitution or a statute, since there is no means of

EFFECTIVE REMEDIES - GENERAL

redress or remedy in case of violation of those rights.

Paragraph 431

Reports of forced evictions, in particular a case where 150 persons were forced to leave their traditional homes and land as a result of the construction of a cruise-ship berth, are regretted. Although the persons evicted received some cash compensation, they were not offered alternative accommodation.

- Nigeria, ICESCR, E/1999/22 (1998) 27 at paras. 128 and 132.

Paragraph 128

The restoration of democracy and the rule of law are prerequisites for the implementation of the International Covenant on Economic, Social and Cultural Rights in Nigeria. Elimination of the practice of governing by military decree and the strengthening of the authority of the Nigerian judiciary and the National Human Rights Commission are necessary first steps in restoring confidence in the regime's intention to reinstitute democratic civilian rule.

Paragraph 132

The rights of minority and ethnic communities - including the Ogoni people - should be respected and full redress should be provided for the violations that they have suffered of the rights set forth in the Covenant.

- Canada, ICESCR, E/1999/22 (1998) 63 at paras. 426 and 434.

Paragraph 426

The federal, provincial and territorial governments should expand protection in human rights legislation to include social and economic rights and to protect poor people in all jurisdictions from discrimination because of social or economic status. Moreover, enforcement mechanisms provided in human rights legislation need to be reinforced to ensure that all human rights claims not settled through mediation are promptly determined before a competent human rights tribunal, with the provision of legal aid to vulnerable groups.

Paragraph 434

The federal government should extend the Court Challenges Programme to include challenges to provincial legislation and policies which may violate the provisions of the Covenant.

- Ireland, ICESCR, E/2000/22 (1999) 33 at para. 147.

EFFECTIVE REMEDIES - GENERAL

The State party should expand the scope of its National Anti-Poverty Strategy, including the poverty-proofing of policy proposals, and integrate a human rights approach into the Strategy.

- Tunisia, ICESCR, E/2000/22 (1999) 36 at paras. 164 and 176.

Paragraph 164

The State organs for the promotion and protection of human rights are concentrated within the executive branch of government and are not empowered to review complaints of violations of the rights provided for in the Covenant. This compromises the independence of these institutions, including that of the judiciary, and the justiciability of economic, social and cultural rights.

Paragraph 176

With respect to the general framework within which human rights are protected and promoted, an independent judiciary is considered to be an essential instrument for the protection of economic, social and cultural rights.

- Mexico, ICESCR, E/2000/22 (1999) 62 at paras. 394 and 403.

Paragraph 394

The State party should take effective measures to combat corruption, since this problem negatively affects the full implementation of the rights protected by the Covenant, including legal action against those responsible for acts of corruption.

Paragraph 403

The State party is urged to increase its efforts to provide adequate housing at affordable prices, particularly to the poorest segments of society. The State party should establish mechanisms that record evictions and their follow-up, and take immediate remedial action against forced evictions.

- Egypt, ICESCR, E/2001/22 (2000) 38 at para. 177.

The State party must enhance its strategies and programmes aimed at combating domestic violence. In this regard, the State party is urged to criminalize marital rape and combat this problem through information campaigns and educational programmes.

- Congo, ICESCR, E/2001/22 (2000) 43 at paras. 201, 210 and 211.

Paragraph 201

EFFECTIVE REMEDIES - GENERAL

Deep concern is expressed about the abrogation of the Constitution in October 1997 by the Government of President Denis Sassou-Nguesso, resulting in a legal vacuum which has been detrimental to the enjoyment of economic, social and cultural rights by the citizens of the Republic of the Congo. The "Fundamental Act", which was adopted to replace the Constitution, cannot guarantee the enjoyment of these rights.

Paragraph 210

The State party is urged to adopt a Constitution, in order to ensure that the people of the Republic, and particularly the most vulnerable and marginalized groups of society, enjoy their economic, social and cultural rights. It should also take appropriate measures, to guarantee, *inter alia*, the prohibition of discrimination, the elimination of forced or bonded labour, particularly of children under 16 years of age, and conditions for the enjoyment of the right to work, such as equal pay for equal work for men and women.

Paragraph 211

The State party is urged to address the inequalities affecting women in society with a view to eliminating them by adopting and enforcing appropriate legislative and administrative measures.

- Jordan, ICESCR, E/2001/22 (2000) 49 at paras. 242, 250 and 256.

Paragraph 242

It is recommended that the State party expedite the publication of the Covenant in the Official Gazette and take the necessary action to make it enforceable in the courts, including the courts of first instance.

Paragraph 250

The State party should criminalize marital rape and provide appropriate penalties for perpetrators. Moreover, adequate procedures and mechanisms need to be established to receive complaints and monitor, investigate and prosecute instances of abuse. Attention should be given to addressing and overcoming socio-cultural barriers that inhibit victims from seeking assistance. Programmes for the rehabilitation and reintegration of victims need to be strengthened.

Paragraph 256

In accordance with article 11 of the Covenant, the State party is encouraged to prevent any occurrence of forced eviction. It is recommended that the resettlement procedures and programmes include registration, facilitate comprehensive family rehabilitation and ensure access to basic services. The State party should take due regard of General Comments 7 and 4, concerning forced evictions and the right to housing.

EFFECTIVE REMEDIES - GENERAL

- Mongolia, ICESCR, E/2001/22 (2000) 53 at paras. 270 and 281.

Paragraph 270

The Committee deplores the lack of facilities and the inefficiency of remedies for victims of domestic violence, which is estimated to affect a third of the country's women. Concern is also expressed about discrimination against pregnant women and sexual harassment of women in the workplace. Furthermore, the absence of women at senior levels, both at work and in public office, is of concern.

Paragraph 281

The State party is called upon to enforce efficiently in practice labour legislation prohibiting discrimination against women in employment, such as prohibition of the dismissal of pregnant women and the criminalization of sexual harassment. The State party is urged to organize public campaigns to raise awareness about domestic violence, to criminalize spousal rape and to provide victims with shelters and adequate remedies.

- Australia, ICESCR, E/2001/22 (2000) 66 at paras. 378, 379 and 389.

Paragraph 378

In spite of existing guarantees pertaining to economic, social and cultural rights in the State party's domestic legislation, the Covenant continues to have no legal status at the federal and state level, thereby impeding the full recognition and applicability of its provisions.

Paragraph 379

It is regretted that because the Covenant has not been entrenched as law in the domestic legal order, its provisions cannot be invoked before a court of law.

Paragraph 389

It is strongly recommended that the State party incorporate the Covenant in its legislation, in order to ensure the applicability of the provisions of the Covenant in the domestic courts. The State party is urged to ensure that no conflicts occur between Commonwealth and state law in this respect. The State party is encouraged to follow the High Court's position concerning "legitimate expectations" arising from the ratification of the Covenant.

- Portugal, ICESCR, E/2001/22 (2000) 70 at paras. 423 and 424.

Paragraph 423

It is suggested that the State party strictly implement the measures at its disposal to monitor and impose the appropriate penalties on persons or companies using child labour.

EFFECTIVE REMEDIES - GENERAL

Paragraph 424

The State party should intensify its efforts to prevent drug addiction among young people and impose appropriate penalties on persons who commit offences relating to paedophilia, child pornography and trafficking in women. The Committee also recommends that the State party give due consideration to ratifying ILO Convention No. 138 (minimum age).

- Finland, ICESCR, E/2001/22 (2000) 73 at para. 438.

Concern is expressed that, while the Covenant may be directly invoked before the courts of Finland, there is no case law data suggesting that this has ever happened.

- Belgium, ICESCR, E/2001/22 (2000) 77 at paras. 471 and 479.

Paragraph 471

It is of deep concern that there is no specific legislation which outlaws acts of xenophobia and racism, and in particular the activities of right-wing racist political parties, which are increasingly present on the political scene, especially in Flanders.

Paragraph 479

It is recommended that the State party, having ratified the Covenant, take appropriate steps to guarantee fully the direct applicability of the Covenant in the domestic legal order.

- Morocco, ICESCR, E/2001/22 (2000) 82 at paras. 523, 531, 532 and 555.

Paragraph 523

Concern is expressed that no legislative, judicial or administrative measures have been adopted by the State party to give effect to many of the provisions of the Covenant.

Paragraph 531

Concern is expressed that the State party does not provide for appropriately severe and enforceable penalties to ensure that employers, especially in the handicraft and light industries, are prevented from resorting to child labour under the legal minimum working age.

Paragraph 532

It is of concern that there is no legislation in place which affords protection to those who are employed as domestic workers, especially young girls, who are ill-treated and exploited by their

EFFECTIVE REMEDIES - GENERAL

employers.

Paragraph 555

The State party is urged to take remedial action, including the imposition of appropriately severe penalties, in order to ensure that employers, especially in the handicraft and light industries, are prevented from resorting to child labour under the legal minimum working age. In addition, the State party is urged to raise the minimum working age from 12 to 15 years, in accordance with ILO standards (Convention No. 138).

- Venezuela, ICESCR, E/2002/22 (2001) 29 at paras. 82 and 83.

Paragraph 82

Concern is expressed about the State party's slowness in implementing its own National Plan of Action for Human Rights and the lack of awareness about rights enshrined in the Covenant.

Paragraph 83

It is of concern that the Ombudsman's Office does not place adequate emphasis on the monitoring of the enjoyment of economic, social and cultural rights by the citizens of Venezuela, especially by the indigenous people, and that there is no case law relating directly to the provisions of the International Covenant on Economic, Social and Cultural Rights.

- Honduras, ICESCR, E/2002/22 (2001) 33 at para. 147.

The State party is urged to undertake urgent measures to introduce rehabilitation programmes for street children. The State party is also urged to address the issue of sexual abuse, exploitation and prostitution of children, by adopting a national plan to combat the problem, including collecting relevant data and conducting a thorough study of the issue.

- Hong Kong Special Administrative Region (China), ICESCR, E/2002/22 (2001) 39 at paras. 177, 178, 189, 190 and 194.

Paragraph 177

It is regretted that the Hong Kong Special Administrative Region has not implemented a number of the recommendations from the concluding observations of 1996, despite the delegation's assurance that these must be given effect. Particular concern is reiterated on the fact that the status of the International Covenant on Economic, Social and Cultural Rights in the Hong Kong Special Administrative Region domestic legal order continues to be different from that of the International Covenant on Civil and Political Rights, the provisions of which have been incorporated into domestic

EFFECTIVE REMEDIES - GENERAL

legislation; and the failure of the Hong Kong Special Administrative Region to establish a national human rights institution with a broad mandate and its failure to establish adequate alternative arrangements for the promotion of economic, social and cultural rights.

Paragraph 178

It is greatly regretted that some judgements of the High Court in the Hong Kong Special Administrative Region express the opinion that the Covenant is "promotional" (*Mok Chi Hung v. Director of Immigration*, judgment of 5 January 2001) or "aspirational" (*Chan To Foon v. Director of Immigration*, judgment of 11 April 2001) in nature. As has been confirmed on numerous occasions, such opinions are based on a mistaken understanding of the legal obligations arising from the Covenant.

Paragraph 189

The authorities are reminded that the provisions of the Covenant constitute a legal obligation. Thus, the authorities are urged not to argue in court proceedings that the Covenant is only "promotional" or "aspirational" in nature.

Paragraph 190

The authorities are again urged to implement the suggestions and recommendations contained in the concluding observations of 1996, as well as the current ones, and to undertake whatever relevant concrete measures may be necessary towards their implementation.

Paragraph 194

A national human rights institution should be established that is consistent with the Paris principles and General Comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights. Until such an institution is established, the authorities are urged to enhance their measures for the promotion of economic, social and cultural rights.

- Republic of Korea, ICESCR, E/2002/22 (2001) 45 at paras. 225, 244, 246, 247, 250 and 251.

Paragraph 225

It is regretted that no adequate effort has been made to ensure that the rights provided for in the Covenant are fully enshrined in law. It is noted with concern that according to the Constitution, the status of the Covenant is equal to that of domestic laws, by which the protection of some rights may be overridden by subsequently enacted laws or special laws.

Paragraph 244

The Committee emphasizes that a human rights approach to Government actions must begin with a proper understanding of the actual situation in respect of each right, accurate identification of the

EFFECTIVE REMEDIES - GENERAL

must vulnerable groups, and the formulation of appropriate laws, programmes and policies. It urges the national statistical agencies and relevant ministries to review the ways in which data relating to all rights is collected through the lens of the Covenant.

Paragraph 246

The State party is urged to accord the Covenant a legal status that would enable it to be invoked directly within the domestic legal system. It is recommended that such status be superior to all national laws, whether precedent, antecedent or special. Reference is made in this regard to General Comment 9.

Paragraph 247

It is recommended that the State party allocate the necessary resources to enable the newly established Ministry for Gender Equality to function effectively and to apply a gender perspective in legislation and in society.

Paragraph 250

More effective measures should be taken to combat the sexual trade of children and child labour, as well as expand its programmes directed at the protection and rehabilitation of such victims.

Paragraph 251

It is recommended that the State party establish a focal point within the Government for dealing with complaints or appeals for assistance on housing matters. Protection should be provided, such as compensation and temporary housing, to victims of forced evictions resulting from private development projects. The State party should also ensure that adequate housing is available to members of vulnerable or marginalized groups. Moreover, the State party should take immediate measures to assist all those who are homeless or living in exceptionally sub-standard conditions, such as "vinyl houses".

- Bolivia, ICESCR, E/2002/22 (2001) 52 at paras. 266 and 283.

Paragraph 266

It is regretted that laws incorporating the Covenant into Bolivia's domestic legal system have not yet been adopted.

Paragraph 283

The State party is called upon to ensure that the economic, social and cultural rights enshrined in the Covenant are directly applicable in the domestic legal order.

- Togo, ICESCR, E/2002/22 (2001) 57 at paras. 317 and 323.

EFFECTIVE REMEDIES - GENERAL

Paragraph 317

Violence against women continues to be a serious problem, with mechanisms for redress inadequately used and police rarely intervening in domestic violence cases, as well as the persistent occurrence of female genital mutilation of young girls, despite the governmental measures taken.

Paragraph 323

It is recommended that the State party address the persistence of discrimination, particularly in relation to women and girls, and between the various ethnic minorities living in Togo, with a view to eliminating such discrimination by adopting appropriate legislative and administrative measures, developing non-discrimination policies and by taking effective steps to enforce such measures and policies.

- Senegal, ICESCR, E/2002/22 (2001) 61 at para. 375.

The State party is urged to take effective measures to reinforce existing laws on child labour and to improve its monitoring mechanisms in order to ensure that those laws are enforced and to protect children from economic exploitation. In this regard, the State party should consider ratifying the ILO Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour.

- Panama, ICESCR, E/2002/22 (2001) 73 at paras. 447 and 463.

Paragraph 447

It is regretted that legislation aimed at the incorporation of the Covenant directly into Panama's domestic legal system has not been adopted and that as a result, the Covenant cannot be invoked before the internal authorities.

Paragraph 463

The provisions of the Covenant should be directly applicable in the domestic legal order, so that they can be invoked before the courts.

- Ukraine, ICESCR, E/2002/22 (2001) 78 at paras. 486 and 503.

Paragraph 486

The establishment of the Office of the Authorized Human Rights Representative of the Parliament (Verkhovna Rada), which has considered many complaints in relation to economic, social and cultural rights, is welcomed.

EFFECTIVE REMEDIES - GENERAL

Paragraph 503

Legal provisions should be strengthened with respect to the prohibition of discrimination in accordance with article 2 (2) of the Covenant, in particular on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Recalling the Code of Conduct for Law Enforcement Officials, all necessary steps should be taken to prevent incidents of racially motivated ill-treatment and ensure that timely and thorough investigations and effective prosecutions are carried out.

- Nepal, ICESCR, E/2002/22 (2001) 83 at paras. 530, 553, 556 and 563.

Paragraph 530

The unclear status of the Covenant in the domestic legal order and the lack of case law with respect to any of the rights under the Covenant is regretted.

Paragraph 553

The State party is strongly urged to ensure that the Covenant is taken into full account in the formulation and implementation of all policies concerning economic, social and cultural rights and that its provisions are justiciable in fact.

Paragraph 556

The State party is encouraged to ensure that the National Human Rights Commission does not concentrate solely on civil and political rights, but accords equal weight and attention to economic, social and cultural rights.

Paragraph 563

Effective action should be taken to reduce the unemployment rate by providing skills-oriented education and training, particularly in the agricultural sector.

- Japan, ICESCR, E/2002/22 (2001) 90 at paras. 589, 612, 617 and 622.

Paragraph 589

The State party does not give effect to the provisions of the Covenant in domestic law in a satisfactory manner, despite the fact that many of its provisions are reflected in the Constitution. Provisions of the Covenant are also not sufficiently taken into account in the process of legislation and policy formulation, and are rarely mentioned in legislative or administrative proposals or in parliamentary debates. Further concern is expressed about the fact that judicial decisions generally do not make reference to the Covenant, on the mistaken ground that none of its provisions has direct effect. It is a further matter of concern that this position is endorsed by the State party, thereby contravening its obligations under the Covenant.

EFFECTIVE REMEDIES - GENERAL

Paragraph 612

The State party is urged to review its position towards its legal obligations arising under the Covenant and its provisions should be interpreted as being directly applicable in practice, as outlined in the Committee's general comments, including General Comments No. 13 (1999) on the right to education (art. 13 of the Covenant) and No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), at least in relation to the core obligations. The State party is further encouraged to introduce "human rights impact assessments", comparable to environmental impact assessments, and other measures to ensure that the provisions of the Covenant are taken into consideration in legislative and administrative policy and decision-making processes.

Paragraph 617

The indication that the State party proposes to establish a national human rights institution is welcomed and the State party is urged to do so as soon as possible and in accordance with the Paris Principles and General Comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

Paragraph 622

The State party should strictly apply its domestic legislation and implement effective sanctions to the persons responsible for crimes involving domestic violence, sexual harassment, and the sexual exploitation of children.

- Germany, ICESCR, E/2002/22 (2001) 97 at paras. 654, 655, 672 and 685.

Paragraph 654

While the recent establishment of the German Institute of Human Rights is welcomed, it is noted that the Institute's functions appear to be limited to research, education and the provision of policy advice, and that it does not enjoy the powers often associated with national human rights institutions, such as the power to investigate complaints, conduct national inquiries and formulate recommendations for employers and other actors. These limitations are especially regrettable because economic, social and cultural rights receive less attention and enjoy fewer safeguards than civil and political rights in the State party.

Paragraph 655

Concern is reiterated about the lack of any court decisions in which reference is made to the Covenant and its provisions. It is of concern that judges are not provided with adequate training on human rights, in particular on the rights guaranteed in the Covenant. A similar lack of human rights training is discernable among prosecutors and other actors responsible for the implementation of the Covenant.

Paragraph 672

EFFECTIVE REMEDIES - GENERAL

Given the limited functions and powers of the German Institute for Human Rights, it is recommended that steps be taken either to extend the Institute's functions and powers or to establish a separate national human rights institution with broad functions and powers, such as the power to investigate complaints, conduct national inquiries and formulate recommendations for employers and other actors. In the meantime, it is recommended that the Institute, consistent with its existing functions and powers: devote the same attention to economic, social and cultural rights as to civil and political rights; organize programmes to raise awareness of economic, social and cultural rights, especially among public officials, lawyers and the judiciary; give particular attention to the relationship between human rights and international cooperation; and be responsible for preparing a comprehensive plan of action in full conformity with paragraph 71 of the Vienna Declaration and Programme of Action.

Paragraph 685

Training programmes should be undertaken for those dealing with victims of trafficking in persons to ensure that they are sensitized to the needs of the victims, to provide better protection and appropriate care, and to ensure that victims can claim redress before courts of law.

CEDAW

- Ukraine, CEDAW, A/51/38 (1996) 32 at para. 299.

Legislation that allows the activities of numerous sex services and the practice of hiring women as dancers, waiters or other staff to work abroad, often leading to prostitution, should be reviewed and amended, and measures should be taken to prosecute criminal offenders and to rehabilitate the victims through education, training and support services.

- Slovenia, CEDAW, A/52/38/Rev.1 part I (1997) 15 at paras. 101 and 111.

Paragraph 101

Victims of violence should receive support from the police, understanding of the dynamics of violence against women from judges, counselling and placement in shelters and, in particular, they should be assisted in rebuilding their lives.

Paragraph 111

A formal complaint procedure and a formal evaluation board outside the Chamber of Commerce, which would include all sectors of society should be established, to address sexist advertisements. That procedure should incorporate sanctions against offending advertising agents.

- Turkey, CEDAW, A/52/38/Rev.1 part I (1997) 24 at paras. 183 and 194.

EFFECTIVE REMEDIES - GENERAL

Paragraph 183

Sufficient appropriate measures have not yet been taken to prevent and combat the acceptance of male dominance and violence against women in rural as well as urban areas, as reflected in such practices as beating women and requiring silent obedience from them.

Paragraph 194

Serious efforts are required to address violence against women, especially domestic violence, through legislation and comprehensive, gender-sensitive awareness-raising and education for the public in general and for law enforcement agencies, such as judges, lawyers and police in particular. Battered women's shelters should be established and provided with adequate financial and human resources.

- Italy, CEDAW, A/52/38/Rev.1 part II (1997) 106 at para. 359.

The Government is urged to embark on public sensitization campaigns in relation to domestic violence in its various manifestations (sexual, physical, etc.) to ensure the protection of human rights of women and the girl child in the family. In particular, it is recommended that measures be introduced to encourage complaints and to provide mechanisms for effective and timely response to such claims. Health professionals should be trained in the care and management of domestic violence cases. Measures should be introduced to increase the number of domestic violence shelters throughout Italy.

- Zimbabwe, CEDAW, A/53/38/Rev.1 part I (1998) 13 at para. 156.

The function of the office of the ombudsperson should be extended to allow it to address complaints about gender discrimination in the private sphere and the private sector.

- Bulgaria, CEDAW, A/53/38/Rev.1 part I (1998) 19 at para. 253.

An ombudsperson should be appointed in accordance with the current proposal before Parliament. Sufficient resources should be allocated to enable the office to function effectively. The ombudsperson should also be provided with a clear mandate to address gender issues.

- Mexico, CEDAW, A/53/38/Rev.1 part I (1998) 32 at paras. 413 and 416.

Paragraph 413

Strong action should be taken against persons who commit violence against women and it should be made easier for women to bring a court action against offenders.

EFFECTIVE REMEDIES - GENERAL

Paragraph 416

Action should be taken against employers who discriminate against women on grounds of pregnancy. The women concerned should be supported and society sent a clear signal that such discrimination is not to be tolerated.

- Algeria, CEDAW, A/54/38 part I (1999) 12 at para. 80.

Specific legislative and structural steps should be taken to shelter women from domestic violence and provide women who are victims of violence with comfort, assistance, advice, guidance and information concerning legal redress. Education and awareness training on domestic and sexual violence should be made available to police officers, judges, doctors and the mass media to make their intervention more effective.

- Kyrgyzstan, CEDAW, A/54/38 part I (1999) 15 at paras. 114, 117, 123 and 139.

Paragraph 114

The principle of equality guaranteed by law should include non-discrimination on the grounds of sex. The introduction of a procedure for enforcing rights through effective judicial and other means is recommended. Policies, including educational, mass media and awareness-raising campaigns should also be introduced and efforts should be directed at countering both intentional and unintentional discrimination.

Paragraph 117

All national programmes to promote the advancement of women should include mechanisms for the assessment of the outcomes of their implementation, the evaluation of their effectiveness and the extent of their outreach.

Paragraph 123

All forms of gender-based violence should be a focus of serious concern. Comprehensive measures should be enhanced to prevent violence and to support women victims, including gender-sensitization and the training of law enforcement officials. In the light of the linkage of violence with poverty, the introduction of measures aimed at improving the economic status of women, including retraining for income-generating occupations is recommended.

Paragraph 139

Effective measures should be taken with respect to the implementation of existing laws, the improvement of women's economic situation and the implementation of public education programmes to change traditional values supportive of polygamy in order to eradicate this practice altogether.

EFFECTIVE REMEDIES - GENERAL

- Greece, CEDAW, A/54/38/Rev.1 part I (1999) 20 at paras. 190 and 196.

Paragraph 190

The Government should strengthen the legislative and policy framework to prevent, eliminate and prosecute violence against women. Urgent measures should be taken to institutionalize the training of police and law enforcement personnel to ensure the appropriate handling of cases of violence against women. Efforts should also be made to improve the accessibility and effectiveness of complaints mechanisms against sexual harassment in the workplace.

Paragraph 196

The Government should develop programmes to raise awareness of the constitutional remedy among women and women's groups so that individual acts of discrimination will be consistently challenged and so that the Constitution will have an impact on government action and policy and on the private sector.

- China, CEDAW, A/54/38/Rev.1 part I (1999) 26 at paras. 283 and 284.

Paragraph 283

That the Women's Law does not contain a definition of discrimination against women is a concern. It is also a concern that the Women's Law does not provide for effective remedies in cases of violation of the law.

Paragraph 284

Legislation should be adopted that expressly prohibits gender discrimination, including unintentional and indirect discrimination. It is also recommended that the Government improve the availability of means of redress, including legal remedies, under the Women's Law. The Government should provide legal aid to women who suffer discrimination in its various forms, to assist them in the realization of their rights. It should also widely publicize all these measures so that adequate enforcement of the law can be ensured. The Committee recommends further that the Government adopt measures and allocate resources at both the central and provincial levels to monitor implementation of the various laws on gender equality.

- Colombia, CEDAW, A/54/38/Rev.1 part I (1999) 33 at paras. 362 and 372.

Paragraph 362

It is recommended that practical measures on the follow-up and monitoring of legislation be taken, that assessments of their effectiveness be carried out and that mechanisms guaranteeing compliance with court rulings be created.

Paragraph 372

EFFECTIVE REMEDIES - GENERAL

The State party is urged to establish an effective national mechanism, including complaints procedures, that will ensure that those guilty of criminal conduct, both State officials and private individuals, stand trial. The Government should step up security measures for all those who promote and defend human rights, especially in view of kidnappings and other acts that constitute an assault on physical integrity, with particular attention to the situation of women.

- Belize, CEDAW, A/54/38/Rev.1 part II (1999) 49 at para. 51.

The Government is urged to ensure that the Convention's definition of discrimination is fully incorporated into Belize's legislation, and in particular to ensure that women have effective remedies against indirect discrimination and discrimination by non-state actors.

- India, CEDAW, A/55/38 part I (2000) 7 at paras. 46, 48, 60-63, 66, 67, 69 and 72.

Paragraph 46

The contribution made by the Supreme Court of India in developing the concept of social action litigation and a jurisprudence integrating the Convention into domestic law by interpreting Constitutional provisions on gender equality and non-discrimination is appreciated.

Paragraph 48

The Government of India is commended for establishing the National Commission for Women and state commissions for women with responsibility for developing action plans on gender and proposals for law reform.

Paragraph 60

Steps have not been taken to reform the personal laws of different religious and ethnic groups, in consultation with them, so as to conform with the Convention. The Government's policy of non-intervention perpetuates sexual stereotypes, son preference and discrimination against women.

Paragraph 61

The Government is urged to withdraw its declaration to article 16 (1) of the Convention and to work with and support women's groups as members of the community in reviewing and reforming personal laws of different religious and ethnic groups. The Government should follow the directive principles in the Constitution and Supreme Court decisions and enact a uniform civil code which different ethnic and religious groups may adopt.

Paragraph 62

A comprehensive and compulsory system of registration of births and marriages has not yet been established. Inability to prove those important events by documentation prevents effective implementation of laws that protect girls from sexual exploitation and trafficking, child labour and

EFFECTIVE REMEDIES - GENERAL

forced or early marriage. The failure to register marriages may also prejudice the inheritance rights of women.

Paragraph 63

The Government should provide adequate resources and establish a system of compulsory registration of births, and should monitor implementation in cooperation with women's groups and local bodies.

Paragraph 66

That the fundamental rights recognized in the Constitution can be enforced only against state actors and in the event of inaction on the part of the state, is of concern. The private sector, where a great number of women are employed, which is expanding in a period of transition to market economic policies, is not covered by Constitutional standards.

Paragraph 67

The introduction of a sex discrimination act to make the standards of the Convention and the Constitution applicable to non-state action and inaction is recommended.

Paragraph 69

The Government is urged to implement existing legislation prohibiting such practices as dowry, *devadasi* and caste-based discrimination. The Government should strengthen law enforcement and introduce reforms in regard to the law on rape, sexual harassment and domestic violence.

Paragraph 72

A review of prevention of terrorism legislation and the Armed Forces Special Provisions Act, in consultation with the Human Rights Commission of India, the National Commission of Women and civil society, is recommended so that special powers given to the security forces do not prevent the investigation and prosecution of acts of violence against women in conflict areas and during detention and arrest. Women should be given an opportunity to make their contribution to peaceful conflict resolution.

- Myanmar, CEDAW, A/55/38 part I (2000) 12 at para. 118.

The Government is urged to prosecute and punish those who violate the human rights of women, including military personnel, and to carry out human rights education and gender-sensitization training for all law enforcement and military personnel.

- Jordan, CEDAW, A/55/38 part I (2000) 16 at paras. 170,171, 177, 186 and 187.

Paragraph 170

Concern is expressed that although the Convention acquired the force of law within the country upon

EFFECTIVE REMEDIES - GENERAL

ratification it has still not been published in the Official Gazette, which is a prerequisite to it becoming legally binding.

Paragraph 171

The Government is urged to publish the Convention in the Official Gazette without delay, and to initiate necessary legislative action to make the Convention enforceable in courts.

Paragraph 177

The State party take the necessary legal and social measures should be taken, including awareness raising, to address effectively the issue of violence against women.

Paragraph 186

Concern is expressed over the lack of decision-making and enforcement power of the National Commission for Women. The fact that the Commission was established by decree rather than by law is also noted with concern.

Paragraph 187

The Government should consider strengthening the National Commission for Women by placing its existence on a legislative basis, by strengthening its decision-making and enforcement powers and by providing adequate human and financial resources. This mechanism should be given the mandate to receive complaints about discrimination.

- Germany, CEDAW, A/55/38 part I (2000) 29 at para. 320.

The Government is urged to ensure the systematic implementation of the action plan on violence against women and to monitor its impact in the areas of emphasis identified in the plan. In particular, legislation and measures to ensure that women victims of domestic violence have immediate means of redress and protection are recommended. The Government should take measures aimed at creating zero tolerance for such violence, and make it socially and morally unacceptable. Furthermore, measures should be taken to sensitize the judiciary to all forms of violence against women that constitute infringements of the human rights of women under the Convention, particularly taking into account the increased vulnerability of foreign women to such violence.

- Belarus, CEDAW, A/55/38 part I (2000) 34 at paras. 360, 369 and 370.

Paragraph 360

The State party is urged to create adequate remedies for women to obtain easy redress from direct and indirect discrimination, especially in the area of employment. The Government should also improve women's access to such remedies, including access to courts, by facilitating legal aid to women and embarking on legal literacy campaigns.

EFFECTIVE REMEDIES - GENERAL

Paragraph 369

Although some efforts have been made, it is of concern that there is no holistic approach to preventing and eliminating violence against women and punishing perpetrators.

Paragraph 370

The Government should assess the impact of measures already taken to address the incidence of violence against women. The State party should address the root causes of violence against women, especially domestic violence, so as to improve the effectiveness of legislation, policies and programmes aimed at combatting such violence. The legislation on violence against women should be reviewed and strengthened. It is further recommended that the Government put in place immediate means of redress and increase psychological counselling for victims, including for those women who are serving prison sentences. The Government is urged to implement training and sensitization programmes for the judiciary, law enforcement officials and members of the legal profession, as well as awareness-raising measures to create zero tolerance in society with regard to violence against women.

- Luxembourg, CEDAW, A/55/38 part I (2000) 38 at para. 401.

The Government should undertake as a matter of urgency all necessary steps to facilitate the amendment of the Constitution to bring it in line with article 2 of the Convention. Once the Constitution is amended, a time-frame should be set to review all legislation so as to bring it into compliance with the newly amended Constitution. The importance of such legislative review is stressed, to highlight the significance of the Constitutional amendment on equality between women and men, and to ensure effective domestic remedies. The crucial importance of such effective remedies is noted, in light of the pending entry into force of the Optional Protocol to the Convention.

- Cameroon, CEDAW, A/55/38 part II (2000) 53 at paras. 46 and 50 .

Paragraph 46

The State party should urgently undertake a comprehensive reform of legislation in order to promote equality and human rights for women. Effective legal remedies should be introduced, and a review and revision of customary law that infringes the human rights of women should be undertaken.

Paragraph 50

The Government is invited to apply the Committee's general recommendation 19 and to formulate policies and programmes to eliminate these violations of women's human rights. The Government should provide access to legal remedies and medical services, establish counselling services for the victims, train legal, health and police personnel, and launch public-awareness campaigns in order to achieve zero tolerance with regard to all forms of violence against women and girls.

EFFECTIVE REMEDIES - GENERAL

- Republic of Moldova, CEDAW, A/55/38 part II (2000) 56 at paras. 91, 92 and 102.

Paragraph 91

Although the Constitution provides for the equality of all citizens before the law and public authorities, including on grounds of sex, concern is expressed that it does not reflect the definition of discrimination in article 1 of the Convention, which prohibits both direct and indirect discrimination. Concern is also expressed about the status of the Convention in domestic law, and whether its provisions can be directly invoked before the Courts. The lack of information provided about remedies available to women for redress of violations of their rights protected under the Convention, is a further matter of concern.

Paragraph 92

The Government should encourage a constitutional amendment to incorporate equality on the basis of sex in the Constitution and to reflect fully article 1 of the Convention. The Government is requested to clarify the status of the Convention in domestic law, and to ensure, through legal education and continuing professional training, that judicial officers are aware of the Convention.

Paragraph 102

The Government should place high priority on measures to address violence against women in the family and in society, and to recognize that such violence, including domestic violence, constitutes a violation of the human rights of women under the Convention. In the light of general recommendation 19 on violence against women, the Government is called upon to ensure that such violence constitutes a crime punishable under criminal law, that it is prosecuted and punished with the required severity and speed, and that women victims of violence have immediate means of redress and protection. Measures should be taken to ensure that public officials, especially law enforcement officials and the judiciary, are fully sensitized to all forms of violence against women. The Government is also invited to undertake awareness-raising measures, including a campaign of zero tolerance, to make such violence socially and morally unacceptable.

See also:

- Uzbekistan, CEDAW, A/56/38 part I (2001) 18 at para. 166.

- Lithuania, CEDAW, A/55/38 part II (2000) 61 at paras. 149 and 151.

Paragraph 149

The State party should consolidate and strengthen the existing governmental national mechanisms for women, including through the provision of financial and human resources, to carry out effectively their mandates. Furthermore, the Government should continually review the budgetary needs of the Office of the Equal Opportunities Ombudsman.

EFFECTIVE REMEDIES - GENERAL

Paragraph 151

Article 118 of the Criminal Code should be amended to define rape explicitly as sexual intercourse without consent. The Government should continue to pay serious attention to domestic violence against women, including through ongoing training of police officials, future lawyers and judges and through easy access to courts by the victims of domestic violence. The introduction of a specific law prohibiting domestic violence against women, which would provide for protection and exclusion orders and access to legal aid and shelters, is recommended.

- Iraq, CEDAW, A/55/38 part II (2000) 66 at paras. 179, 190 and 200.

Paragraph 179

While the current situation in the State party is not favourable to the advancement of women in some respects, the State party has failed to adopt specific policies and take all possible measures to implement the Convention. In particular, the failure of the State party to revoke legislative provisions that discriminate against women, is noted.

Paragraph 190

The Government should encourage and support the establishment of facilities for women victims of domestic violence, such as telephone hotlines and shelters for battered women, and should launch a zero-tolerance campaign on violence against women so as to raise awareness about the problem and the need to combat it effectively.

Paragraph 200

The Government should ensure that women do not bear a disproportionate portion of the economic difficulties facing the country. In particular, non-discriminatory labour legislation should be put in place and be effectively enforced.

- Austria, CEDAW, A/55/38 part II (2000) 70 at paras. 221, 222, 235 and 240.

Paragraph 221

The measures undertaken to combat violence against women, are noted with satisfaction. The federal law on the protection against family violence, which entered into force on 1 May 1997, which created a legal basis for the speedy and efficient protection of victims of domestic violence, is commended. The programmes relating to sexual violence against persons with disabilities are particularly appreciated.

Paragraph 222

The various measures taken by the Government to combat trafficking in women, including the apprehension, prosecution and punishment of perpetrators, are noted with satisfaction. Efforts to

EFFECTIVE REMEDIES - GENERAL

increase international cooperation in order to address this transnational issue are also appreciated.

Paragraph 235

The State party should strengthen the powers of the Equal Treatment Commission in order to allow it to be more effective in its efforts to combat discriminatory practices and to guarantee equal opportunity and treatment for women in the workplace.

Paragraph 240

Governmental initiatives to assess gender policies through pilot projects are commended, but concern is expressed that such initiatives do not go beyond the pilot stage. The Government should apply the results of the projects in ongoing law, policy and programming.

- Cuba, CEDAW, A/55/38 part II (2000) 73 at paras. 265 and 266.

Paragraph 265

Further efforts are needed to identify the root causes of the increase in prostitution in recent years, and of the effectiveness of measures to counteract this trend.

Paragraph 266

The Government is urged to increase its understanding of the causes of prostitution, and to assess the impact of its preventive and rehabilitative measures with a view to improving their effectiveness, and to bringing them fully into line with article 6 of the Convention. Programmes for women's economic independence should be expanded in such a manner as to attack the causes of prostitution and to eradicate the need for women to enter into prostitution.

- Romania, CEDAW, A/55/38 part II (2000) 77 at paras. 296, 300 and 303-307.

Paragraph 296

The establishment, in 1998, of the Office of the Advocate of the People with the functions of human rights ombudsman, empowered to protect the human rights of women and children including in the family, is welcomed.

Paragraph 300

The Government is called upon to recognize the urgency of needed legislative and policy changes, and to place the highest priority on the adoption of the proposed legislation on equal opportunities and on domestic violence and trafficking in women.

Paragraph 303

EFFECTIVE REMEDIES - GENERAL

Concern is expressed over the continuing stereotypical and sexist portrayal of women in the media, especially in advertising. The State Party should encourage the media to contribute to the societal effort to overcome such attitudes, should create opportunities for a positive, non-traditional portrayal of women and should encourage and facilitate the use of self-regulatory mechanisms in the media to reduce discriminatory and stereotypical portrayals of women.

Paragraph 304

While welcoming the fact that in accordance with article 20 of the Constitution, the Convention is integrated into domestic legislation and takes precedence over such legislation, it is of concern that there is a lack of familiarity among the judiciary about the opportunities created by article 20 of the Constitution for the application of the Convention in domestic decision-making.

Paragraph 305

The Convention and its applicability at the domestic level should be included in law school curricula and continuing judicial education.

Paragraph 306

The increase in violence against women is of concern. The absence of legislation criminalizing domestic violence, including marital rape, and the recognition of the defence of a so-called “reparatory marriage” in the Criminal Code, which eliminates criminal liability of a rapist if the rape victim consents to marry him, are of concern. The fact that there is no legislation concerning sexual harassment is also a matter of concern.

Paragraph 307

The Government is called upon to make violence against women in all its forms and in the light of general recommendation 19 on violence against women a crime adequately punishable by law. Legislation and measures to ensure that women victims of domestic violence have immediate means of redress and protection, are recommended. The Government is also called upon to expand its zero-tolerance campaign on violence against women so as to make such violence socially and morally unacceptable. Measures should also be taken to ensure that law enforcement officials, the judiciary and health-care providers are aware that violence against women, including domestic violence, constitutes an infringement of the human rights of women under the Convention that must be prosecuted with the seriousness and speed it deserves.

- Kazakhstan, CEDAW, A/56/38 part I (2001) 10 at paras. 80, 81, 88 and 94.

Paragraph 80

The fact that the State party has ratified the Convention without reservations and has signed the Optional Protocol, and intends to ratify it as soon as possible, is welcomed.

Paragraph 81

EFFECTIVE REMEDIES - GENERAL

The efforts to elaborate a law on equal opportunities and to establish the office of ombudsman are welcomed.

Paragraph 88

The Government is urged to adopt as soon as possible the draft law on equal opportunities, which includes a definition of discrimination against women modelled on article 1 of the Convention.

Paragraph 94

The creation of an ombudsman's office to address issues of women's advancement and gender equality is recommended.

- Maldives, CEDAW, A/56/38 part I (2001) 15 at paras. 132, 133 and 138.

Paragraph 132

The fact that there is an absence of an effective machinery to enforce the rights recognized by the Constitution and to claim remedies is regretted. It is of concern that the constitutional provisions on fundamental rights do not include non-discrimination on the ground of sex.

Paragraph 133

The Government is urged to incorporate a provision against sex discrimination into the Constitution and to provide for the effective enforcement of fundamental rights.

Paragraph 138

The State party is urged to improve law enforcement measures, enact laws on domestic violence, including domestic violence and marital rape, in accordance with general recommendation 19 on violence against women, and work with women's groups to obtain reliable data and provide relief to victims of violence. The Government should respond to this issue in national plans, based on the Beijing Platform for Action and the Commonwealth Plan of Action. The Government is further called upon to create public awareness on violence against women as an infringement of human rights that has grave social costs for the whole community.

- Jamaica, CEDAW, A/56/38 part I (2001) 22 at paras. 211 and 212.

Paragraph 211

The slowness of legal reform relating to anti-discriminatory legislation is of concern. It is also of concern that although the Constitution provides for the equality of all citizens, there are no constitutional remedies available to women.

Paragraph 212

EFFECTIVE REMEDIES - GENERAL

The Constitution should be amended to allow women to have access to constitutional remedies of redress. The Government is urged to make the necessary legislative reforms to the Constitution in order to create an appropriate legal framework to ensure that the law is consistent with the provisions of the Convention. The Government should reform existing legislation and create new legislation to protect the equal rights of women and men in regard to labour, social, family and property.

- Mongolia, CEDAW, A/56/38 part I (2001) 26 at paras. 253, 254, 256, 266 and 270.

Paragraph 253

Although the Constitution provides for the equality of all citizens before the law, it does not reflect the definition of discrimination in article 1 of the Convention, which prohibits both direct and indirect discrimination. The fact that there are no remedies available to women to redress violations of their rights is also a matter of concern.

Paragraph 254

Legal reforms should be undertaken so as to ensure that the full meaning of article 1 of the Convention is reflected in the country's Constitution and legislation, and that constitutional rights are enforceable.

Paragraph 256

All gender discriminatory laws should be reviewed and reformed in consultation with professional and women's groups. Law enforcement should be strengthened and effective remedies provided through the courts. Legal literacy programmes for the community and gender-sensitization programmes for judges and law enforcement officials should be developed.

Paragraph 266

Steps should be taken to prosecute persons engaged in organizing prostitution and effective measures should be adopted to combat trafficking in women.

Paragraph 270

Laws, policies and educational programmes should be developed that support and promote the idea of joint parental responsibility and prevent discrimination against women because of their family responsibilities.

- Finland, CEDAW, A/56/38 part I (2001) 29 at paras. 302 and 306.

Paragraph 302

Efforts should be increased to effectively implement current policies aimed at combatting violence, to pay more attention to prevention efforts and to take steps to turn the "zero-tolerance" campaign into a legally binding State policy. All necessary measures should be implemented in order to

EFFECTIVE REMEDIES - GENERAL

empower individuals and non-governmental organizations to take action with regard to sexual harassment.

Paragraph 306

Studies should be undertaken on the participation of minority women in society and effective measures should be taken to eliminate discrimination against them and strengthen efforts to combat racism and xenophobia in Finland.

- Singapore, CEDAW, A/56/38 part II (2001) 51 at para. 89.

The State party should improve its complaints procedure with respect to violations of the constitutionally guaranteed rights to equality so that acts of discrimination can be challenged by women.

- Guinea, CEDAW, A/56/38 part II (2001) 55 at paras. 119, 135 and 141.

Paragraph 119

The Constitution should be amended to include a definition of discrimination against women modelled on article 1 of the Convention. The State party is requested to take steps to eliminate the contradiction between constitutional guarantees on the one hand, and remaining discriminatory civil laws on the other, by initiating a comprehensive action plan for legal reform and by adopting a mechanism that enables women to challenge discrimination and effectively enforce the rights guaranteed by the Constitution in the courts.

Paragraph 135

The issue of violence against women should be assigned a high priority and such violence, including domestic violence, should be recognized as a violation of the human rights of women under the Convention. Legislation on domestic violence should be enacted as soon as possible, and it should be ensured that violence against women and girls constitutes a criminal offence and that female victims of violence have immediate means of redress and protection. Also, gender training should be made available for all public officials, particularly law-enforcement officials, the judiciary and health workers, to educate them about all forms of violence against women and girls.

Paragraph 141

It is recommended that the Government continue to give assistance to refugees and displaced women and girls and to carry out rehabilitative efforts directed at them. Further assistance should be sought

EFFECTIVE REMEDIES - GENERAL

from, and work in close cooperation should be continued with, international agencies qualified in the field of refugee protection.

- Guyana, CEDAW, A/56/38 part II (2001) 60 at paras. 162, 163 and 166-169.

Paragraph 162

Concern is expressed at the absence of reference to indirect discrimination in the Constitution and legislation seeking to eliminate discrimination. Further concern is expressed that the Constitution does not as yet provide for a complaints procedure to enforce the guarantees on gender equality and fundamental human rights.

Paragraph 163

Priority should be given to constitutional and legislative reform to address these gaps and strengthen law enforcement so as to ensure that women's *de jure* and *de facto* equality will be realized. In particular, the strengthening of civil remedies so that women can enforce their rights through litigation is recommended. Constitutional commissions should be established as soon as possible.

Paragraph 166

It is of concern that women do not seek legal redress when they suffer discrimination in employment because they are deterred by the delays in litigation caused by the enormous backlog of civil cases.

Paragraph 167

Employment arbitration should be provided as an option and measures taken to prevent delays in litigation. Measures should be taken to increase women's awareness and understanding of their rights and legal aid facilities provided, where possible, in cooperation with non-governmental organizations.

Paragraph 168

While there seems to be a policy on maternity leave, there is concern that women continue to be discriminated against on the grounds of pregnancy and maternity, particularly in the private sector, where contractual arrangements are made to circumvent the existing laws. Law enforcement is dependent upon prosecution by the Chief Labour Officer; this does not appear to provide effective remedies.

Paragraph 169

Laws and policies on maternity should be brought in conformity with the Convention. A national policy for the private and public sectors should be developed that includes minimum mandatory and paid maternity and parental leave, and effective sanctions and remedies should be provided for violation of laws on maternity leave. Training programmes for the staff of the Labour Office should

EFFECTIVE REMEDIES - GENERAL

be established to facilitate prosecution and ensure the effective enforcement of existing laws for both the public and private sectors.

- Viet Nam, CEDAW, A/56/38 part II (2001) 68 at paras. 258, 259 and 261.

Paragraph 258

Concern is expressed at the lack of legal and other measures to address violence against women, as well as at the failure of the State party to specifically penalize marital rape. Further concerns are expressed that penalties for child sex abuse are low, that there is a prevalence of forced and child marriage, and that cruelty does not constitute grounds for divorce. That there is an overemphasis on reconciliation in cases of marital breakdown, including those in which violence has occurred, is also of concern.

Paragraph 259

General recommendation No. 19 on violence against women should be implemented to ensure that all forms of violence against women and girls constitute crimes and that victims are provided with protection and redress. The criminalization of marital rape is urged, as is close scrutiny of requirements for reconciliation in cases of marital breakdown, in particular those in which violence is involved.

Paragraph 261

The State party should collaborate in regional and international strategies to confront trafficking and monitor, and where appropriate apply, the positive experience of other countries in this context. Measures aimed at improving the economic situation of women should be adopted in order to reduce their economic vulnerability to traffickers, and comprehensive rehabilitative programmes should be created for women and girls who have been subject to such trafficking.

- Nicaragua, CEDAW, A/56/38 part II (2001) 72 at para. 299.

Awareness-raising and penal measures should be introduced to eliminate the sexual abuse of young girls.

- Sweden, CEDAW, A/56/38 part II (2001) 76 at paras. 347 and 357.

Paragraph 347

A procedure should be adopted that ensures that women are not discriminated against when appointments to the judiciary are made.

EFFECTIVE REMEDIES - GENERAL

Paragraph 357

Effective measures should be taken to eliminate discrimination against immigrant, refugee and minority women and to strengthen efforts to combat xenophobia and racism. The State party is also encouraged to be more proactive in its measures to prevent discrimination against immigrant, refugee and minority women, both within their communities and in society at large, to combat violence against them and to increase their awareness of the availability of social services and legal remedies.

CAT

- Norway, CAT, A/48/44 (1993) 13 at para. 87.

Including a definition of torture in domestic law and explicitly characterizing torture as a crime would make it possible to solve problems relating to universal jurisdiction. Another solution, equally acceptable, would be to make the Convention part of domestic law.

- China, CAT, A/48/44 (1993) 62 at paras. 427 and 428.

Paragraph 427

Arrested or detained persons should have more extensive guarantees immediately following their arrest and should have prompt and regular access to their family, lawyer and doctor. In order to guarantee the protection of detainees during interrogation, separation between the authorities responsible for detention, on the one hand, and investigation, on the other should be provided for. The conduct of interrogations should be monitored in the framework of administrative and other forms of detention. In that regard, legislation could be considered that would enable detainees to lodge complaints and allow plaintiffs and witnesses to be protected against any ensuing ill-treatment or intimidation.

Paragraph 428

Criminal proceedings should be systematically initiated against persons accused of acts of torture. Those proceedings should be conducted independently of any disciplinary measures taken. Procedures should be introduced to guarantee the medical examination of persons detained or arrested, to be carried out by qualified and independent medical doctors, immediately following arrest and at regular intervals thereafter, in particular before release. Training for law enforcement personnel, members of the armed forces and medical doctors should concern in particular, limitations on the use of instruments, equipment and weapons by the security forces.

EFFECTIVE REMEDIES - GENERAL

- Spain, CAT, A/48/44 (1993) 68 at para. 456.

All offences specified in article 1 of the Convention need to be punished with equal vigour. General application of the procedural standards relating to the holding of persons incommunicado and to the choice of a trustworthy counsel is desirable.

- Paraguay, CAT, A/49/44 (1994) 11 at paras. 59-61.

Paragraph 59

The continuing lack of legal mechanisms to make clearer the prohibition of torture, to halt extended or incommunicado detention and, in general, to bring domestic law fully into line with the Convention are of concern. The absence, in practice, of a swift and firm reaction on the part of the courts to allegations of ill-treatment and torture is also of concern.

Paragraph 60

Concern is expressed about the slow pace of judicial proceedings relating to violations of human rights committed under the previous regime and also about the apparently inadequate system for the civil compensation and rehabilitation of victims.

Paragraph 61

The State party could have a more complete mechanism for the eradication of torture if it recognized the competence of the Committee under articles 21 and 22 of the Convention.

- Poland, CAT, A/49/44 (1994) 12 at para. 72.

The following is recommended:

- (a) The necessary steps should be taken to have the new draft Penal Code and Code of Criminal Procedure adopted, thus solving the specific problems brought about by torture;
- (b) Adequate redress and compensation for victims of torture should be ensured and guaranteed;
- (c) A specific training programme on torture for civilian and military personnel, lawyers and the medical profession should be formulated.

- Ecuador, CAT, A/49/44 (1994) 16 at para. 105.

EFFECTIVE REMEDIES - GENERAL

The Government is encouraged to implement the legislative reforms undertaken to place the criminal justice system (from the investigation of offences to the serving of sentences) under the direct supervision of independent members of the judiciary and ensure that they can quickly investigate reported or suspected cases of torture or ill-treatment.

- Portugal, CAT, A/49/44 (1994) 17 at para. 116.

The State party should establish machinery for the systematic review of interrogation rules, instructions, methods and practices, particularly at police stations, as stipulated in article 11 of the Convention, and ensure that such machinery is sufficiently effective, as required by article 2, to give full effect to the commitments assumed and to implement the provisions of the Convention.

The State party should extend the application of the Convention to Macao, in accordance with article 2, paragraph 1, of the Convention.

See also:

- Egypt, CAT, A/49/44 (1994) 14 at para. 92.
- Morocco, CAT, A/50/44 (1995) 17 at para. 111.
- Mauritius, CAT, A/50/44 (1995) 20 at para. 142.

- Cyprus, CAT, A/49/44 (1994) 19 at para. 127.

The following is recommended:

When complaints committees are set up to examine questions of police brutality that may contravene the Convention against Torture a great effort should be made to ensure that their composition cannot be criticized on the basis of real or perceived partiality;

It is sometimes very difficult for small, homogeneous States to change institutional attitudes and practices without creating the risk of a strong reaction. Very often it is useful to utilize an external agency for this catalytic role. Quite obviously, not only do the police need to be disciplined and prosecuted for any unlawful conduct, but a real attempt must be made to properly internalize their attitudes towards the human rights values that they must respect in their everyday activities.

- Chile, CAT, A/50/44 (1995) 10 at paras. 59 and 60.

EFFECTIVE REMEDIES - GENERAL

Paragraph 59

Legislation such as the rules of the criminal prosecution system and the subjection of civilians to military jurisdiction, are not helpful as far as the prevention of torture is concerned.

Paragraph 60

In a spirit of collaboration, the following measures should be adopted:

An in-depth review of procedure, especially as regards police powers of detention and the right of the detainee to free access to and communication with family members and legal advisers and a physician whom he trusts; and the advisability of explicitly abolishing those rules such as automatic obedience, which are not compatible with the Convention;

The security forces should be subordinate to the civil authorities responsible for public safety and all vestiges of the legislation enacted by the military dictatorship should be abandoned;

A special provision for the offence of torture, as described in article 1 of the Convention should be made, and it should be punishable by a penalty appropriate to its seriousness.

- Peru, CAT, A/50/44 (1995) 11 at para. 73.

The following measures are recommended:

The procedure relating to terrorist offences should be reviewed for the purpose of establishing a prosecution system which is effective but which preserves the independence and impartiality of the courts and the right of defence, with the elimination of so-called "faceless trials" and the holding of detainees incommunicado;

The military courts should be regulated to prevent them from trying civilians and to restrict their jurisdiction to military offences, by introducing the appropriate legal and constitutional changes;

Torture should be defined as an independent offence punishable by a penalty appropriate to its seriousness;

The efforts to educate medical and law-enforcement personnel, civil and military, should be intensified, as should the programmes for the full rehabilitation of victims.

- Liechtenstein, CAT, A/50/44 (1995) 14 at para. 85.

EFFECTIVE REMEDIES - GENERAL

The authorities of Liechtenstein should expeditiously finalize the drafting of the law concerning the granting of asylum to ensure the prompt application of article 3 of the Convention.

- Libyan Arab Jamahiriya, CAT, A/50/44 (1995) 16 at para. 102.

The fight against torture should be continued by: (i) sending clear messages and instructions to that effect to police and providing educational programmes to them; and (ii) ensuring that those who commit the offence of torture are prosecuted in accordance with the law.

- Morocco, CAT, A/50/44 (1995) 17 at paras. 109, 110 and 112.

Paragraph 109

Allegations concerning torture and ill treatment, said to be practised in various places of detention, in particular in police stations, are of concern. Shortcomings related to the effectiveness of the preventive measures taken to combat torture, in particular the half-heartedness displayed in pursuing inquiries and bringing the authors of acts of torture before the courts, whose independence must be preserved, are of concern. This situation creates the impression that such offences can be committed with relative impunity, an impunity prejudicial to the application of the provisions of the Convention.

Paragraph 110

All forms of torture should be provided for in penal legislation so that all the elements of the definition of that offence contained in article 1 of the Convention are fully covered.

Paragraph 112

The State party should instigate and press forward with serious inquiries into the actions of police officials for the purpose of establishing whether or not acts of torture have been committed and, if the results of these investigations are positive, bring the authors before the courts. At the same time, it should draw up and pass on to the police clear and precise instructions prohibiting all acts of torture or ill treatment.

See also:

- Denmark, CAT, A/51/44 (1996) 9 at para. 40.
 - France, CAT, A/53/44 (1998) 15 at para. 144.
 - Slovakia, CAT, A/56/44 (2001) 43 at para. 105.
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- The Netherlands, CAT, A/50/44 (1995) 18 at para. 129.

EFFECTIVE REMEDIES - GENERAL

The Netherlands Antilles should take strong measures to bring to an end the ill treatment which reportedly occurs in police stations and to ensure that such allegations are speedily and properly investigated and that those who may be found guilty of acts of ill treatment are prosecuted.

See also:

- Denmark, CAT, A/51/44 (1996) 9 at para. 41.

- Mauritius, CAT, A/50/44 (1995) 20 at paras. 139 and 144.

Paragraph 139

Inadequacies in the adoption of suitable measures for the purpose of officially combating torture, particularly the timidity shown in conducting inquiries and promptly bringing the perpetrators of such acts before the courts are of concern.

Paragraph 144

The State party should undertake and press on with inquiries capable of determining whether acts of torture have been committed by police officers, and when the findings of the investigations prove positive, bring the perpetrators before the courts on the one hand, and order and transmit to the police precise and clear instructions to prevent any act of torture, on the other.

- Italy, CAT, A/50/44 (1995) 21 at paras. 155 and 157.

Paragraph 155

The penalties imposed on the members of the forces of law and order are not commensurate with the seriousness of the reported acts of torture and in some cases deaths, of detainees.

Paragraph 157

The State party should:

Better guarantee the right of a victim of torture to be compensated by the State and provide some programme of rehabilitation for him;

Monitor effective compliance with safeguards during preliminary custody, especially access to a doctor and legal counsel;

Make sure that complaints of ill treatment and torture are promptly and effectively investigated and, where appropriate, impose an appropriate and effective penalty on the persons responsible;

EFFECTIVE REMEDIES - GENERAL

Establish more training programmes for law-enforcement and medical personnel.

- Jordan, CAT, A/50/44 (1995) 23 at paras. 166, 167 and 174.

Paragraph 166

The definition of the act of torture as specified by article 1 of the Convention is not incorporated in the State party's legislation. Current criminal law does not cover all cases of torture and ill treatment, as provided for in the Convention.

Paragraph 167

The fact that a number of allegations of torture have been made since the State party acceded to the Convention is of deep concern. Such allegations appear to be rarely subjected to independent and impartial investigations. Furthermore, it is of concern that political detainees were sentenced to death or imprisonment in trials before the State Security Court on the basis of confessions allegedly extracted after torture.

Paragraph 174

The State party should strengthen measures to protect the rights of detainees, especially their access to judges, lawyers and doctors of their choice. It should also promptly investigate allegations of torture and ill treatment and ensure that appropriate penalties are applied whenever such offences are committed; prevent the commission of such acts through efforts to ensure the stricter observance of regulations relating to the treatment of detainees and offenders; and reduce the length of preventive detention, taking into account its principle of presumption of innocence and the complexity of investigation.

- Guatemala, CAT, A/51/44 (1996) 10 at paras. 51, 54 and 57.

Paragraph 51

Wide disparity in the distribution of economic wealth creates conditions that may tend towards confrontations between the law enforcement organs and those parts of the population which are at the lowest end of the economic and social scale. In this respect, the individual recourse procedure provided for under article 22 of the Convention would constitute a useful preventive measure once it has been accepted by the Government.

Paragraph 54

The State party's continued failure to promptly and impartially investigate and prosecute those responsible for acts of torture and ill-treatment is of concern.

EFFECTIVE REMEDIES - GENERAL

Paragraph 57

The following measures are recommended:

Providing means and material resources that are necessary for public law enforcement officials to fulfil their mandates;

Adopting measures providing for an effective coordination between the police and the prosecutors;

Protecting witnesses, judges and prosecutors from threats and intimidations;

Imposing severe sanctions for those public officials who do not comply with their duty of applying the law;

Completely abolishing the so-called Voluntary Committees of Civic Defence;

Changing the legal provisions concerning the military jurisdiction, in order to limit the jurisdiction of military judges exclusively to military crimes;

Reducing the authorization to carry fire-arms to the minimum strictly indispensable.

- Colombia, CAT, A/51/44 (1996) 15 at paras. 76 and 79.

Paragraph 76

The light penalties for the offence of torture in the Code of Military Justice do not seem to be acceptable, nor does the extension of military jurisdiction to deal with ordinary crime by means of the inadmissible expansion of the concept of active service and the enactment of provisions which seriously limit the effectiveness of means for protecting rights, such as *habeas corpus*.

Paragraph 79

The practice of torture should be ended forthwith and to this end it is suggested that the State party act with great firmness to restore the State's monopoly over the use of force, disbanding all armed civilian or paramilitary groups, and ensure that swift and impartial investigations into allegations of torture are conducted immediately and that informers and witnesses are protected.

- Armenia, CAT, A/51/44 (1996) 17 at para. 97.

Orders received from a superior implying the perpetration of an act of torture are illegal and should be sanctioned under criminal law. In addition, they cannot be considered by the person

EFFECTIVE REMEDIES - GENERAL

receiving such orders as justification for having committed torture. This should be clearly incorporated into domestic law.

- Senegal, CAT, A/51/44 (1996) 19 at paras. 114, 115 and 117.

Paragraph 114

The State party should consider introducing explicitly in national legislation the following provisions:

The definition of torture set forth in article 1 of the Convention and the classification of torture as a general offence which would, *inter alia*, permit the State party to exercise universal jurisdiction as provided in articles 5 *et seq.* of the Convention;

A blanket prohibition of any act of torture, with the stipulation that no exceptional circumstance may be invoked to justify torture;

An express provision stipulating that an order from a superior officer or from a public authority may not be invoked to justify torture;

Provisions explicitly prohibiting evidence from being obtained by torture and prohibiting any statement shown to have been extracted in this way from being used as evidence in any proceedings.

Paragraph 115

All crimes referred to in article 4, paragraph 1, of the Convention should automatically be made the subject of a rigorous and prompt investigation by the competent judicial authorities and by the Government Attorney.

Paragraph 117

The precedence of international treaty law over internal law should be implemented unreservedly. The amnesty laws in force are inadequate to ensure proper implementation of certain provisions of the Convention.

- Finland, CAT, A/51/44 (1996) 21 at paras. 129 and 134.

Paragraph 129

A provision specifically prohibiting the use of statements obtained under torture in judicial proceedings could constitute a strong preventive measure against acts of torture.

EFFECTIVE REMEDIES - GENERAL

Paragraph 134

An independent agency should be established to investigate offences allegedly committed by the police.

- China, CAT, A/51/44 (1996) 22 at para. 150.

The following is recommended:

A comprehensive system should be established to review, investigate and effectively deal with complaints of maltreatment, by those in custody of every sort. If the Procuratorate is the body that carries out the investigations, it should be given the necessary jurisdiction to carry out its functions, even over the objections of the organ that it is investigating;

The methods of executing prisoners sentenced to death should be brought into conformity with article 16 of the Convention;

Conditions in prisons should be brought into conformity with article 16 of the Convention;

Access to legal counsel should be granted to all those detained, arrested or imprisoned as a matter of right and at the earliest stage of the process. Access to the family and to a medical doctor should also be accommodated;

A Rehabilitation Centre for Torture Victims should be established;

An independent judiciary, as defined in international instruments, is important for ensuring the objectives of the Convention against Torture. The autonomy/independence of the judiciary should be ensured.

- Croatia, CAT, A/51/44 (1996) 25 at para. 162.

The following is recommended:

Croatia should ensure that all allegations of torture or cruel, inhuman or degrading treatment or punishment arising out of the events of 1995 and its aftermath, are rigorously investigated by an impartial, independent commission;

A vigorous programme of education of police, as well as prison, medical, prosecution and judicial personnel should be undertaken to ensure that they understand their obligations pursuant to the relationship between the domestic law and the international human rights regime;

EFFECTIVE REMEDIES - GENERAL

Croatia should continue to cooperate with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 to ensure that alleged war criminals within its jurisdiction are brought to justice pursuant to the Dayton peace accord;

Individual claims of violations of the constitutional rights of defendants in pre-trial detention should be justiciable by an effective judicial authority;

Police and judicial authorities should pay special attention to the implementation of the existing legal guarantees against torture of a constitutional and procedural nature.

- Russian Federation, CAT, A/52/44 (1997) 9 at para. 42.

The following is of concern:

Widespread allegations of torture and ill-treatment of suspects and persons in custody with a view to securing confessions, general allegations of ill-treatment of detainees and the absence of effective machinery to address such complaints promptly;

Young soldiers being brutalized by older soldiers without the authorities taking appropriate remedial measures;

The failure to establish effective machinery for the prompt examination of prisoners' complaints about ill-treatment and conditions in prisons;

The slow rate of harmonizing domestic legislation with the Constitution and with norms concerning human rights leaves a gap between the legal order respecting human rights established under the Constitution and the application of the law;

Lack of appropriate measures to give comprehensive effect to the provisions of article 3 of the Convention and to ensure its applicability in all relevant circumstances, including in relation to extradition;

Absence of extraterritorial jurisdiction makes difficult or impossible the implementation of article 5, paragraph 1 (b), of the Convention;

Reported widespread abuses of human rights in the conflict in Chechnya, including acts of torture, and the apparent failure to check such abuses and address them speedily and effectively.

- Republic of Korea, CAT, A/52/44 (1997) 12 at paras. 58, 63 and 65.

EFFECTIVE REMEDIES - GENERAL

Paragraph 58

The continued failure to promptly and impartially investigate and prosecute those responsible for acts of torture and ill-treatment is of concern. It is unacceptable that only formal complaints of the victims of torture are investigated.

Paragraph 63

National laws should be further reviewed in the light of the Convention and other standards for the protection of human rights in general.

Paragraph 65

An independent governmental body should take over the inspection of detention centres and places of imprisonment. Public prosecutors, who are also part of law enforcement personnel, which may itself be subject to investigation of the crime of torture, should not be the main inspection figures.

- Uruguay, CAT, A/52/44 (1997) 16 at paras. 88, 93 and 94.

Paragraph 88

The establishment of a working group on the national prison system, made up of representatives of non-governmental organizations, which is developing a programme of systematic visits to penal institutions, is worthy of being held up as an example.

Paragraph 93

Legal reforms must be introduced to bring internal legislation into conformity with the provisions of the Convention, in particular as regards the definition of torture as a specific offence and the elimination of obedience to a superior as justification for exculpation from the crime of torture.

Paragraph 94

Measures taken to prevent the torture of persons deprived of their liberty and to strengthen protection in prisons should be improved.

- Poland, CAT, A/52/44 (1997) 18 at paras. 105 and 107.

Paragraph 105

Reforms of the legal system, which will offer the possibility of formal, effective and concrete judicial verification of the constitutionality of police custody and pre-trial detention, with a view to implementing the provisions of the Convention, are recommended.

Paragraph 107

EFFECTIVE REMEDIES - GENERAL

Objective inquiries into the activities of the security forces should be initiated and pursued with due dispatch in order to determine the veracity of allegations of acts of torture, and where the findings are positive, offenders should be brought before the courts.

- Georgia, CAT, A/52/44 (1997) 21 at para. 121.

The following is recommended:

The Presidential Decree on urgent measures for the halting of torture and other cruel, inhuman or degrading treatment should be implemented as soon as possible;

Incommunicado detention should be abolished;

Rigorous educational programmes for the police, prison officers, doctors, prosecutors and judges should be implemented to ensure that each group understands its constitutional role and its obligations under the Convention;

Resources should be made available to improve prison conditions as a matter of urgency, including the provision of appropriate medical facilities;

A monitoring body with comprehensively defined authority should be established to keep under constant review the conditions in which investigations are conducted and persons are held in custody;

The powers of the Committee for Human Rights and Relations Between the Peoples or another such body, as appropriate, should be strengthened to ensure the prompt examination of complaints of torture and other cruel, inhuman or degrading treatment of detainees and prisoners and the prosecution without fail of those responsible for such acts;

The prison service should be removed from the control of the Ministry of the Interior and transferred to the Ministry of Justice or an independent ministry of corrections.

- Ukraine, CAT, A/52/44 (1997) 23 at paras. 132-134, 138 and 144.

Paragraph 132

The State party lacks a sufficiently effective system of independent bodies capable of successfully investigating complaints and allegations of the use of torture, preventing and putting an end to torture and ensuring that the perpetrators of such acts are held fully responsible for them.

Paragraph 133

EFFECTIVE REMEDIES - GENERAL

The legislation in force fails to provide any effective judicial control of the lawfulness of arrests.

Paragraph 134

Although the State party's Constitution prohibits the use of torture, its criminal legislation fails to define torture as a distinct and dangerous crime. In the circumstances, this provision of the Constitution is merely declaratory. Provisions on criminal responsibility for the imposition of inhuman and degrading punishment are also lacking.

Paragraph 138

A major obstacle in efforts to prevent torture is the difficulty experienced by accused persons in gaining access to a lawyer of their choice in cases where the lawyer's participation in the proceedings depends on his presentation of an authorization to act as defence counsel; this problem can be solved only by the Ministry of Justice, which issues such authorizations.

Paragraph 144

Extending supervision by the judicial and civil authorities over the work of the law enforcement agencies and establishing a system of independent institutions for the rapid and effective follow-up of complaints regarding the use of torture and other degrading treatment or punishment is recommended.

- Mexico, CAT, A/52/44 (1997) 26 at paras. 165-167.

Paragraph 165

In practice, the failure by the authority responsible for criminal investigation to investigate reports of torture promptly and impartially, as stipulated in articles 12 and 13 of the Convention, results in the denial of the right of victims to take legal action to claim compensation for the violation of their rights.

Paragraph 166

To discourage the practice of torture, it is necessary to implement effective procedures for monitoring compliance with the duties and prohibitions of public officials and bodies responsible for the administration of justice and law enforcement, particularly the Office of the Attorney-General and its subsidiary departments and the judiciary, in order to ensure the full implementation of the many existing judicial remedies for the elimination of torture and the criminal and administrative punishment of the persons responsible.

Paragraph 167

The following measures are necessary:

EFFECTIVE REMEDIES - GENERAL

The public human rights commissions should be given the necessary jurisdiction to prosecute cases of serious human rights violations, including complaints of torture;

Training and dissemination programmes intended particularly for law enforcement officials and health professionals should be strengthened and should include issues relating to the prohibition of torture;

Procedures to inform detainees of their rights should be developed. Detainees should be immediately and directly informed of their rights by public officials at the time of arrest and those rights should be posted in all detention centres, prosecutors' offices and courthouses.

- Denmark, CAT, A/52/44 (1997) 28 at paras. 184 and 188.

Paragraph 184

It is recommended that the State party consider incorporating the provisions of the Convention into domestic law.

Paragraph 188

The State party should ensure that all complaints of ill-treatment lodged by detainees are handled by independent bodies.

See also:

- Slovenia, CAT, A/55/44 (2000) 34 at para. 208.

- Paraguay, CAT, A/52/44 (1997) 30 at paras. 195, 206 and 208.

Paragraph 195

Guarantees applicable to arrest and detention provide a legal framework that can and should help to prevent torture.

Paragraph 206

The provisions on torture should be separated from the new Penal Code, and all matters related to torture and other cruel, inhuman or degrading treatment or punishment should be included in a special act containing the provisions necessary to give effect to the provisions of the Convention.

EFFECTIVE REMEDIES - GENERAL

In particular:

Torture should be defined in terms consistent with article 1 of the Convention and, since Paraguay is also a party to the Inter-American Convention to Prevent and Punish Torture, the definition should include a specific statement that: "Torture shall also be understood to be the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish", as established by article 2 of that Convention, in accordance with article 1, paragraph 2, of the United Nations Convention against Torture;

The practice of torture should in itself be punishable by law, independently of any effects on or consequences for the victim and without prejudice to any increase in penalties, in view of the seriousness of such effects or consequences;

Provisions to facilitate the prosecution of the use of torture at the international level should be included in accordance with the Convention, which includes recognition of international law and the international protection of human rights among the guiding principles of Paraguay's international relations.

Paragraph 208

Rules and instructions on the matters referred to in article 11 of the Convention should be issued, and systematic procedures for the supervision and monitoring of compliance therewith should be established and maintained in order to eliminate the practice of torture and other cruel, inhuman or degrading treatment or punishment.

- Sweden, CAT, A/52/44 (1997) 33 at para. 223.

The Committee recommends that the State party proceed to incorporate the provisions of the Convention against Torture into Swedish law, as it has already done with regard to the European Convention on Human Rights.

- Namibia, CAT, A/52/44 (1997) 35 at paras. 241, 244, 247 and 251.

Paragraph 241

The State party should enact a law defining the crime of torture in terms of article 1 of the Convention and should legally integrate this definition into the substantive and procedural criminal law system, taking especially into account: (a) the need to define torture as a specific

EFFECTIVE REMEDIES - GENERAL

offence committed by or at the instigation of or with the consent of a public official (*delictum proprium*) with the special intent to extract a confession or other information, to arbitrarily punish, to intimidate, to coerce or to discriminate; (b) the need to legislate for complicity in torture and attempts to commit torture as equally punishable; (c) the need to exclude the legal applicability of all justification in cases of torture; (d) the need to exclude procedurally all evidence obtained by torture in criminal and all other proceedings except in proceedings against the perpetrator of torture himself; and (e) the need to legislate for and enforce prompt and impartial investigation into any substantiated allegations of torture.

Paragraph 244

Independent governmental bodies consisting of persons of high moral standing should be appointed to take over the inspection of detention centres and places of imprisonment. The Government should also establish an independent authority to deal with complaints against members of the Police Department.

Paragraph 247

The cases of disappearance of former members of the South West Africa People's Organization (SWAPO) should be promptly and impartially investigated. In all situations where reasonable grounds exist to believe that those disappearances amounted either to torture or to other forms of cruel, inhuman or degrading treatment, the dependants of the deceased victims should, according to article 14 of the Convention, be afforded fair and adequate compensation.

Paragraph 251

It is recommended that victims of torture be given standing to institute, apart from civil action for damages, criminal procedures against the perpetrators of torture.

- Israel, CAT, A/52/44 (1997) 38 at para. 260.

The following is recommended:

Interrogations applying the methods referred to and any other methods that are in conflict with the provisions of articles 1 and 16 of the Convention should cease immediately;

The provisions of the Convention should be incorporated by legislation into law, particularly the definition of torture contained in article 1 of the Convention, as is currently under consideration by the expert committee of the Ministerial Committee for Legislation;

Interrogation procedures pursuant to the "Landau rules" in any event should be published in full.

EFFECTIVE REMEDIES - GENERAL

- Cyprus, CAT, A/53/44 (1998) 8 at para. 50.

The fact that a victim is unable or unwilling to give evidence should not be a reason for non-prosecution where the case can otherwise be made.

- Argentina, CAT, A/53/44 (1998) 8 at paras. 58, 60, 61, 63 and 64.

Paragraph 58

Implementation of the following provisions of the new Code of Criminal Procedure should help prevent the practice of torture: prohibiting the police from taking a statement from a person who has been charged; strictly limiting cases in which the police may detain persons without a court order and obliging them to bring the detainee before the competent judicial authority immediately or within six hours; limiting the length of incommunicado detention; and stipulating that the fact that an individual is being held incommunicado may under no circumstances prevent him from communicating with his defence counsel before making any statement or before any proceeding requiring his personal participation.

Paragraph 60

The severe penalties for acts of torture laid down in article 144 of the Penal Code, particularly torture resulting in the death of the victim, although formally satisfying the requirements of article 4 of the Convention, are weakened in their practical application by courts which prefer to try the offenders on less serious charges attracting lighter penalties, thus reducing the deterrent effect.

Paragraph 61

The protracted nature of judicial inquiries into complaints of torture nullifies the exemplary and deterrent effect which prosecution of the perpetrators of such crimes should have. Slow procedures intensify the suffering of relatives, inducing them to give up their legitimate demands for the punishment of the guilty parties and delaying the moral and material redress to which they are entitled.

Paragraph 63

A lack of effective and prompt police cooperation in judicial inquiries into complaints of torture and ill-treatment and impediments to these inquiries demonstrate a relatively systematic *modus operandi*, rather than occasional failure to cooperate faithfully with the inquiries.

Paragraph 64

Police brutality which results in the death of or serious injury to the victim, while not constituting torture as defined in article 1 of the Convention, represents cruel, inhuman and

EFFECTIVE REMEDIES - GENERAL

degrading treatment which the State party is obligated to punish under article 16 of the Convention.

- Portugal, CAT, A/53/44 (1998) 10 at paras. 78 and 79.

Paragraph 78

The greatest possible attention should be devoted to the handling of files concerning accusations of violence made against public officials, with a view to initiating investigations and applying appropriate penalties.

Paragraph 79

Legislation should be clarified in order to remove any doubts concerning the obligation on the part of the competent authorities to initiate investigations of their own accord in all cases where there are reasonable grounds for believing that an act of torture has been committed on any territory within their jurisdiction.

- Switzerland, CAT, A/53/44 (1998) 11 at paras. 89, 90, 94 and 98.

Paragraph 89

The lack of an appropriate and specific definition of torture makes the full application of the Convention difficult.

Paragraph 90

Frequent allegations of ill-treatment in the course of arrests or in police custody, particularly in respect of foreign nationals are of concern. Independent machinery for recording and following up complaints of ill-treatment does not seem to exist in all the cantons. The lack of an appropriate response on the part of the competent authorities is noted with serious concern.

Paragraph 94

Machinery should be set up to receive complaints against members of the police regarding ill-treatment during arrest, questioning and police custody.

Paragraph 98

The greatest possible attention should be devoted to the handling of files and investigations concerning accusations of violence made against public officials and, in proven cases, the application of appropriate penalties is advocated.

EFFECTIVE REMEDIES - GENERAL

- Cuba, CAT, A/53/44 (1998) 12 at paras. 116 and 118.

Paragraph 116

Complaints made that certain categories of persons referred to as dissidents are targeted and their fundamental rights violated without having satisfactory means of redress are of concern.

Paragraph 118

The following actions are recommended:

Revision of the rules to the organization of the judicial system in accordance with international instruments on the subject, namely the United Nations guidelines on the independence of the judiciary;

The criminalization of torture, as defined in the Convention, by the creation of a specific crime or crimes giving effect to every aspect of it;

The establishment of a transparent permanent procedure for receiving complaints about torture and other inhuman and degrading treatment or punishment, the prompt examination of such complaints and bringing to justice those responsible;

The incorporation into the law of the right of the suspect or detainee to silence at all stages of investigation;

The establishment of a system of recurrent review of prisons as required by article 11 of the Convention with a view to improving conditions in prisons;

The setting up of a comprehensive programme, which should be kept under constant review, for educating and training law enforcement personnel, medical personnel, public officials and all those involved in the interrogation, custody or treatment of any person arrested, detained or imprisoned;

The establishment of a compensation fund for the compensation of the victims of torture and other prohibited treatment.

- Spain, CAT, A/53/44 (1998) 14 at paras. 128, 133, 134 and 136.

Paragraph 128

Sentences imposed on public officials accused of acts of torture which involve token penalties indicate a degree of indulgence that deprives the criminal penalty of the deterrent and exemplary effect that it should have and is also an obstacle to the genuine elimination of the practice of torture. The increased severity of the penalties will help to remedy this shortcoming.

EFFECTIVE REMEDIES - GENERAL

Paragraph 133

The competent authorities should take the necessary measures to eliminate problems related to the excessive length of investigations into complaints of torture and ill-treatment.

Paragraph 134

State officials responsible for conducting criminal proceedings should use all available procedural means for the effective and exemplary punishment of acts of torture, rather than leave that responsibility to be discharged solely through the actions of those who have suffered direct and personal injury.

Paragraph 136

The State party should institute procedures for the automatic investigation of any case of torture or ill-treatment brought to the State party's attention by any means whatsoever, even when the victims do not lodge complaints through the prescribed legal channels.

- France, CAT, A/53/44 (1998) 15 at para. 147.

The State party should consider abrogating the current system of "appropriateness of prosecution" in order to remove all doubt regarding the obligation of the competent authorities to institute systematically and on their own initiative impartial inquiries in all cases where there are reasonable grounds for believing that an act of torture has been committed anywhere within the territory under their jurisdiction.

- Guatemala, CAT, A/53/44 (1998) 17 at paras. 163-165.

Paragraph 163

The application of the Convention is being hindered by the repeated instances of intimidation of judges, prosecutors, witnesses, victims and their relations, human rights activists and journalists, which largely account for the absence of decisive action by the bodies that should investigate and try crimes and for the continuance of impunity. Article 13 of the Convention makes States responsible for the protection of victims and witnesses.

Paragraph 164

The following is of concern:

The persistence of impunity for crimes, particularly grave human rights violations;

Problems resulting from incompetence in the Public Prosecutor's Office, the Judiciary and the Police, who are responsible for investigating reports, identifying and arresting the perpetrators and bringing them to trial;

EFFECTIVE REMEDIES - GENERAL

The increase in the number of reports of cruel, inhuman or degrading treatment by State agents;

The faulty definition of the crime of torture.

Paragraph 165

The following actions are recommended:

Intensification of efforts to elucidate past grave violations and to ensure that such situations do not recur. Articles 11 and 12 of the Convention require the State to proceed *ex officio* to a prompt and impartial investigation of any report of torture;

Putting into operation the Service for the Protection of Persons involved in Proceedings and Persons connected with the Administration of Justice;

Harmonization of the Penal Code with the definition of torture contained in article 1 of the Convention.

- Germany, CAT, A/53/44 (1998) 19 at paras. 192 and 196.

Paragraph 192

In order to ensure that alleged ill-treatment by police officers is open to the fullest scrutiny, criminal procedures should be open to subsidiary prosecution by the victims of ill-treatment and adherence procedures (Adhäsionsprozesse) and civil procedures for damages should be made widely applicable and possible. Adequate legal assistance by competent legal counsel should also be made available. Furthermore, the length of the investigation of complaints of police ill-treatment should be shortened.

Paragraph 196

Police officers should be required to wear a form of personal identification that would make them identifiable to those who allege ill-treatment.

- Peru, CAT, A/53/44 (1998) 22 at para. 205.

The State party should consider, pursuant to articles 6, 11, 12, 13 and 14 of the Convention, taking measures to ensure that victims of torture or other cruel, inhuman or degrading treatment, and their legal successors, receive redress, compensation and rehabilitation in all circumstances.

See also:

- Peru, CAT, A/55/44 (2000) 13 at para. 60.

EFFECTIVE REMEDIES - GENERAL

- Sri Lanka, CAT, A/53/44 (1998) 24 at paras. 251 and 255.

Paragraph 251

The absence of independent and effective investigation of allegations of disappearances linked with torture is noted.

Paragraph 255

It is recommended that the State party:

Ensure that all allegations of torture - past, present and future - are promptly, independently and effectively investigated and the recommendations implemented without any delay;

While continuing to remedy, through compensation, the consequences of torture, give due importance to prompt criminal prosecutions and disciplinary proceedings against culprits;

Strengthen the Human Rights Commission and other mechanisms dealing with torture prevention and investigation and provide them with all means necessary to ensure their impartiality and effectiveness.

- Yugoslavia, CAT, A/54/44 (1999) 6 at paras. 44, 45 and 51.

Paragraph 44

The incorporation of the definition contained in article 1 of the Convention, in compliance with article 4, paragraph 1 and article 2, paragraph 1, requires specific as well as systematic legislative treatment in the area of substantive criminal law. Article 4 of the Convention demands that each State party shall ensure that all acts of torture are offences under its own criminal law. A verbatim incorporation of this definition would permit the current Yugoslav criminal code formula defining the "extortion of confession" to be made more precise, clear and effective.

Paragraph 45

One of the essential means in preventing torture is the existence, in procedural legislation, of detailed provisions on the inadmissibility of unlawfully obtained confessions and other tainted evidence. The absence of detailed procedural norms pertaining to the exclusion of tainted evidence can diminish the practical applicability of these general principles. Evidence obtained in violation of article 1 of the Convention should never be permitted to reach the cognizance of the judges deciding the case, in any legal procedure.

Paragraph 51

EFFECTIVE REMEDIES - GENERAL

In order to diminish the recurrence of torture, the State party should legally and practically ensure the independence of the judiciary, the unrestricted access to counsel immediately after arrest, the shortening of the length of police custody to a maximum period of 48 hours, the shortening of the period of pre-trial post-indictment detention, strict exclusion of all evidence directly or indirectly derived from torture, effective civil redress and a vigorous criminal prosecution in all cases of torture and breaches of article 16 of the Convention.

- Croatia, CAT, A/54/44 (1999) 8 at paras. 64 and 69.

Paragraph 64

The State party has incorporated the crime of torture and acts constituting other inhuman, cruel or degrading treatment or punishment into its internal legislation in terms that are in accordance with the provisions of articles 4 and 16 of the Convention, since it makes these offences punishable by appropriate penalties which take into account their grave nature.

Paragraph 69

The State party should make all necessary efforts to ensure that the competent authorities immediately conduct an impartial, appropriate and full investigation whenever they have to deal with allegations of serious violations made in a credible manner by non-governmental organizations.

- Hungary, CAT, A/54/44 (1999) 10 at para. 84.

All necessary measures, including, in particular, prompt access to defence counsel assistance soon after arrest, and improved training, should be taken to prevent and eradicate torture and all acts of cruel, inhuman or degrading treatment or punishment.

- Tunisia, CAT, A/54/44 (1999) 11 at paras. 96 and 102.

Paragraph 96

Concern is expressed over the wide gap that exists between law and practice with regard to the protection of human rights. The reported widespread practice of torture and other cruel and degrading treatment perpetrated by security forces and the police, which, in certain cases, resulted in death in custody, is disturbing. Furthermore, concern is expressed over the pressure and intimidation used by officials to prevent the victims from lodging complaints.

Paragraph 102

EFFECTIVE REMEDIES - GENERAL

The State party is called upon to put an end to the degrading practice of torture and in particular to take up the following measures:

To ensure strict enforcement of the provisions of law and procedures of arrest and police custody;

To strictly enforce the procedures of registration, including notification of families of persons taken into custody;

To ensure the right of victims of torture to lodge a complaint without the fear of being subjected to any kind of reprisal, harassment, harsh treatment or prosecution, even if the outcome of the investigation into his claim does not prove his or her allegation, and to seek and obtain redress if these allegations are proven correct;

To ensure that medical examinations are automatically provided following allegations of abuse and that an autopsy is performed following any death in custody; that the findings of all investigations concerning cases of torture are made public, and that this information include details of any offences committed, the names of the offenders, the dates, places and circumstances of the incidents and the punishment received by those who were found guilty.

- The Former Yugoslav Republic of Macedonia, CAT, A/54/44 (1999) 14 at para. 115.

The State party is urged to investigate complaints of maltreatment by Government officials particularly those that relate to ethnic minorities. The investigations should be prompt and impartial and those officials that may be responsible for such maltreatment should be prosecuted.

- Mauritius, CAT, A/54/44 (1999) 15 at para. 123.

The State party should:

Clarify through appropriate legislation that superior orders can never be invoked as a justification of an act of torture;

Introduce legislation that would give effect to all the provisions of article 3 of the Convention by preventing extradition, return and expulsion of persons in danger of being subjected to torture;

Take legislative measures to establish universal jurisdiction as required by article 5 of the Convention;

EFFECTIVE REMEDIES - GENERAL

Ensure that all instances of torture and especially those resulting in death, are promptly and effectively investigated by an independent body and that the perpetrators be brought immediately to justice.

- Venezuela, CAT, A/54/44 (1999) 16 at para. 150.

A governmental programme should be established that is aimed at the physical, psychological and social rehabilitation of torture victims.

- Bulgaria, CAT, A/54/44 (1999) 18 at paras. 159 and 161.

Paragraph 159

The lack of measures to ensure universal jurisdiction with regard to acts of torture in all circumstances is of concern.

Paragraph 161

Concern is expressed over the deficiencies relating to a prompt and impartial system of investigation of alleged cases of torture and the failure to bring those allegations before a judge or other appropriate judicial authority.

- Luxembourg, CAT, A/54/44 (1999) 20 at para. 175.

The State party should:

Adopt the legislation defining torture in accordance with article 1 of the Convention, and consider all acts of torture as a specific offence;

Introduce into law the possibility of an effective appeal against the most severe disciplinary measures imposed on detainees and reduce the severity of these measures;

End, as soon as possible, the practice of placing young offenders, including minors, in the prison for adults.

- Libyan Arab Jamahiriya, CAT, A/54/44 (1999) 20 at para. 188.

EFFECTIVE REMEDIES - GENERAL

The State Party should send a clear message to all its law-enforcement personnel that torture is not permitted under any circumstances. In addition, those who committed the offence of torture should be subjected to a prompt and impartial investigation and be rigorously prosecuted in accordance with the law.

- Egypt, CAT, A/54/44 (1999) 22 at para. 212.

The State party should take effective steps to protect women from threats of sexual abuse by police and officers of the State Security Intelligence as a means of obtaining information from them.

- Malta, CAT, A/55/44 (2000) 10 at para. 45.

It should be ensured that the State party ensure that victims of torture are not dissuaded from lodging a complaint by any intimidation or threats, including threats of legal measures being taken against them.

- Austria, CAT, A/55/44 (2000) 11 at para. 50.

Clear instructions should be given to the police by the competent authorities to avoid any incidence of ill-treatment by police agents. Such instructions should emphasize that ill-treatment by law enforcement officials shall not be tolerated and shall be promptly investigated and punished in cases of violation, in accordance with the law.

- Finland, CAT, A/55/44 (2000) 12 at paras. 54 and 55.

Paragraph 54

The following is of concern:

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.

The use of isolation in certain cases of pre-trial detention, initially authorized by a judge, but whose terms of implementation are decided upon administratively.

Paragraph 55

It is recommended that:

EFFECTIVE REMEDIES - GENERAL

The State party 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.

The law governing isolation in pre-trial detention places be changed by establishing judicial supervision for the determination of the isolation, its duration and its maximum period.

See also:

- Austria, CAT, A/55/44 (2000) 11 at para. 50.
- Azerbaijan, CAT, A/55/44 (2000) 16 at para. 69.

- Peru, CAT, A/55/44 (2000) 13 at paras. 59 and 61.

Paragraph 59

Concern is expressed about the following:

The lack of "independence" of those members of the judiciary who have no security of tenure.

The apparent lack of effective investigation and prosecution of those who are accused of having committed acts of torture.

The use of, in particular, the amnesty laws which preclude prosecution of alleged torturers who must, according to articles 4, 5 and 12 of the Convention, be investigated and prosecuted where appropriate.

The maintenance in some parts of the country of emergency laws which abrogate ordinary human rights protection.

Paragraph 61

The State party should ensure vigorous investigation and, where appropriate, the prosecution of all reported instances of alleged torture and ill-treatment by its authorities, whether civil or military. Amnesty laws should exclude torture from their reach.

See also:

- Azerbaijan, CAT, A/55/44 (2000) 16 at para. 68.

- Kyrgyzstan, CAT, A/55/44 (2000) 17 at para. 75.

EFFECTIVE REMEDIES - GENERAL

The State party should amend its domestic penal law to include the crime of torture, consistent with the definition in article 1 of the Convention, and supported by an adequate penalty. In view of the numerous reports of allegations of torture and ill-treatment by law-enforcement personnel, all necessary effective steps should be taken to prevent these events from occurring. In order to ensure that the perpetrators of torture and ill-treatment do not enjoy impunity, the State party should ensure the investigation and, where appropriate, the prosecution of all those accused of having committed such acts, and ensure that amnesty laws exclude torture from their reach.

See also:

- Kazakhstan, CAT, A/56/44 (2001) 52 at para. 129.

- Uzbekistan, CAT, A/55/44 (2000) 19 at paras. 78, 80 and 81.

Paragraph 78

Several positive aspects have been identified including the large number of investigations carried out following allegations of torture or ill treatment inflicted on citizens by law-enforcement personnel, which proves the existence of an effective system for handling complaints.

Paragraph 80

The following is of concern:

The incompleteness of the definition of torture, which leaves unpunished certain aspects of torture as defined in article 1 of the Convention, and, in particular, the impossibility of prosecuting, under existing domestic law, an individual guilty of torture at the instigation of a law-enforcement officer and, moreover, the failure to make an attempt to commit torture an offence.

The particularly large number of complaints of torture or maltreatment and the small number of subsequent convictions.

The establishment of a regime of criminal liability applicable to law-enforcement officials (policemen, procurators, judges, etc.) who wrongly prosecute or convict, which could tend to undermine the judiciary or weaken the will to prosecute and punish is of concern.

Paragraph 81

The State party should adopt a definition of torture strictly in conformity with article 1 of the Convention, by applying article 4 and should also review the system for handling complaints of torture or ill treatment, so as to minimize the risk of offences going unpunished.

EFFECTIVE REMEDIES - GENERAL

- Poland, CAT, A/55/44 (2000) 21 at paras. 92 and 94.

Paragraph 92

Although the new Polish Constitution recognizes ratified international conventions to be part of the legal system, there are no provisions for making charges relating to, nor penalties applicable to, the crime of torture. Therefore, it is recommended that the State party introduce such legislative changes as are necessary to identify torture as a specific crime and to enable prosecutions of torture, as defined in the Convention, and the application of appropriate penalties.

Paragraph 94

An effective and reliable complaint system should be introduced that will allow the victims of torture and other forms of cruel, inhuman or degrading treatment or punishment to file complaints.

- Portugal, CAT, A/55/44 (2000) 22 at para. 104.

The State party should particularly ensure that criminal investigation and prosecution of public officers are undertaken as a matter of course where the evidence reveals that they have committed acts of torture, or cruel or inhuman or degrading treatment and punishment.

- China, CAT, A/55/44 (2000) 24 at paras. 119, 121, 128, 139, 140 and 142.

Paragraph 119

Concern is expressed about the fact that rules and practices of certain procurators limit the prosecution of torture suspects to certain serious cases.

Paragraph 121

The absence of a uniform and effective investigation mechanism to examine allegations of torture is noted with concern.

Paragraph 128

The State party should ensure the prompt, thorough, effective and impartial investigation of all allegations of torture.

Paragraph 139

Concern is expressed that there have as yet been no prosecutions under the Crimes (Torture) Ordinance, despite circumstances justifying such prosecutions.

Paragraph 140

EFFECTIVE REMEDIES - GENERAL

Concern is expressed that not all instances of torture and other cruel, inhuman or degrading treatment or punishment are covered by the Crimes (Torture) Ordinance.

Paragraph 142

The necessary steps should be taken to ensure that torture, as defined in article 1 of the Convention, is effectively prosecuted and appropriately sanctioned and efforts should be made to prevent other acts of cruel, inhuman or degrading treatment or punishment, in accordance with the provisions of the Convention.

- Paraguay, CAT, A/55/44 (2000) 27 at paras. 149 and 151.

Paragraph 149

The innovations introduced by the new Penal Code are noted with satisfaction, including the extension of its application to the punishment of acts committed abroad against rights which are universally protected under an international treaty; a provision which is in keeping with article 5 of the Convention.

Paragraph 151

The inclusion in the Penal Code of provisions defining torture as a crime in accordance with article 1 of the Convention is recommended.

- El Salvador, CAT, A/55/44 (2000) 28 at paras. 157, 158, 160, 167 and 171.

Paragraph 157

The promulgation and effective observance of the new Penal Code and Code of Criminal Procedure, whose provisions include important guarantees for the protection of fundamental human rights, should contribute to better fulfilment of the State's obligations under the Convention.

Paragraph 158

Among those provisions, particular importance is attached to the following:

The imprescriptibility of both penalties and criminal proceedings in the prosecution of crimes against humanity, including torture.

The attribution of jurisdiction to national courts for the judgment of offences affecting internationally protected property or universally recognized human rights, regardless of by whom and where such offences are committed.

EFFECTIVE REMEDIES - GENERAL

The requirement of written orders authorizing detentions, and the establishment of strict time limits within which a detainee must be brought before a court and the court must give a ruling regarding the detainee's release or remand.

The obligation for national courts to judge individuals charged with offences affecting internationally protected property, in the event that their extradition is rejected.

The creation of the Office of the Procurator for the Protection of Human Rights and the significant activity undertaken by this institution, both in its duties of supervising respect and guarantees for human rights and in the development of human rights promotion and education programmes, particularly those intended for law enforcement personnel.

The creation of prison supervision courts responsible for ensuring the proper enforcement of sentences and respect for the rights of all persons deprived of liberty.

The fact that there is no provision in penal legislation which allows torture to be justified by invoking the order of a superior or public authority. On the contrary, the National Civil Police Organization Act expressly excludes that possibility and, under the general provisions of the Penal Code, both the physical perpetrator of the offence and the person or persons ordering it incur criminal liability.

Paragraph 160

The country's penal legislation does not adequately define the offence of torture in terms consistent with article 1 of the Convention. The type of offence referred to in the Penal Code does not cover all the possible objectives of the offence according to the Convention.

Paragraph 167

The right of torture victims to fair and adequate compensation at the State's expense should be regulated, with the introduction of programmes for as full as possible physical and mental rehabilitation of the victims.

Paragraph 171

The State is urged to adopt measures ensuring that any allegation of suspected torture is promptly and impartially investigated and, if proved, suitably penalized.

- United States of America, CAT, A/55/44 (2000) 31 at para. 180.

It is recommended that the State party take such steps as are necessary to ensure that those who violate the Convention are investigated, prosecuted and punished, especially those who are motivated by discriminatory purposes or sexual gratification.

EFFECTIVE REMEDIES - GENERAL

- The Netherlands, CAT, A/55/44 (2000) 33 at para. 188.

Measures should be taken to fully incorporate the Convention in domestic law, including adopting the definition of torture contained in article 1 of the Convention.

- Slovenia, CAT, A/55/44 (2000) 34 at para. 203.

It is noted that in order to allow for the sanctioning of crimes of torture, special transfer into Slovenia's positive criminal law of the definition of torture contained in article 1 of the Convention is needed. The fact that substantive criminal law does not yet contain a specific *corpus delicti* torture and therefore is not an instrument for the direct incrimination and appropriate punishment of persons guilty of torture is of concern.

- Armenia, CAT, A/56/44 (2001) 17 at para. 39.

The following is recommended:

Although the State party's legislation contains various provisions on some aspects of torture as defined by the Convention, the State party must, in order genuinely to fulfil its treaty obligations, adopt a definition of torture which is fully in keeping with article 1 and provide for appropriate penalties.

Counsel, family members and the doctor of their own choice must be guaranteed immediate access to persons deprived of liberty.

The State party is invited to establish a truly independent and operational system for the inspection of all places of detention, whether Ministry of the Interior, Ministry of Justice or Ministry of Defence facilities.

The State parties should conduct impartial investigations without delay into allegations of hazing ("*dedovshchina*") in the military and institute proceedings in substantiated cases.

The State party is invited to bring the regime of criminal responsibility for judges into line with the relevant international instruments, including the Basic Principles on the Independence of the Judiciary adopted in 1985 and the Guidelines on the Role of Prosecutors adopted in 1990.

As soon as possible the State party should adopt the draft Penal Code, which abolishes the death penalty, in order to resolve the situation of the many persons who have been sentenced to death and who are being kept in uncertainty amounting to cruel and inhuman treatment in breach of article 16 of the Convention.

EFFECTIVE REMEDIES - GENERAL

- Belarus, CAT, A/56/44 (2001) 19 at paras. 45 and 46.

The following is of concern:

The deterioration of the human rights situation in the State party, including persistent abrogations of the right to freedom of expression, such as limitations of the independence of the press, and of the right to peaceful assembly, which create obstacles for the full implementation of the Convention.

The absence of a definition of torture, as provided in article 1 of the Convention, in the Criminal Code of the State party and the lack of a specific offence of torture with the result that the offence of torture is not punishable by appropriate penalties, as required in article 4(2) 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.

The lack of an independent procuracy, in particular, as the Procurator has the competence to exercise oversight on the appropriateness of the duration of pre-trial detention, which can be for a period of up to 18 months.

The pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture reported to the authorities, as well as a failure to prosecute alleged perpetrators, in nonconformity with articles 12 and 13 of the Convention.

The lack of an independent judiciary, with the President of the State party maintaining the sole power to appoint and dismiss from office most judges, who must also pass through a probationary initial term, and whose tenure lacks certain necessary safeguards.

Presidential Decree No. 12 which restricts the independence of lawyers, subordinating them to the control of the Ministry of Justice, by introducing obligatory membership in a state-controlled Collegium of Advocates, in direct contravention with the UN Basic Principles on the Role of Lawyers.

The overcrowding, poor diet and lack of access to basic hygiene facilities and adequate medical care, as well as the prevalence of tuberculosis, in prisons and pre-trial detention centres.

The continuing use of the death penalty, and the inadequate procedures for appeals, lack of transparency about those being held on death row and the reported refusal to return the bodies

EFFECTIVE REMEDIES - GENERAL

of those executed to their relatives, inhibiting any investigation into charges of torture or ill-treatment of them in prison.

Paragraph 46

It is recommended that:

The State party amend its domestic penal law to include the crime of torture, consistent with the definition contained in article 1 of the Convention, and supported by an adequate penalty.

Urgent and effective steps be taken to establish a fully independent complaints mechanism, 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 alleged perpetrators.

The State party consider establishing an independent and impartial governmental and non-governmental national human rights commission with effective powers to, *inter alia*, promote human rights and investigate all complaints of human rights violations, in particular those pertaining to the implementation of the Convention.

Measures be taken, including the review of the Constitution, laws and decrees, to establish and ensure the independence of the judiciary and lawyers in the performance of their duties, in conformity with international standards.

Efforts be made to improve conditions in prisons and pre-trial detention centres and that the State party establish a system allowing for inspections of prisons and detention centres by credible impartial monitors, whose findings should be made public.

Provide independent judicial oversight of the period and conditions of pre-trial detention.

See also:

- Kazakhstan, CAT, A/56/44 (2001) 52 at para. 129.

- Australia, CAT, A/56/44 (2001) 22 at paras. 52 and 53.

Paragraph 52

Concern is expressed about the following:

The apparent lack of appropriate review mechanisms for ministerial decisions in respect of cases coming under article 3 of the Convention.

EFFECTIVE REMEDIES - GENERAL

Use of instruments of physical restraint that may cause unnecessary pain and humiliation by prison authorities.

Allegations of intimidation and adverse consequences faced by inmates who complain about their treatment in prisons.

Paragraph 53

It is recommended that:

The State party consider the desirability of providing a mechanism for independent review of ministerial decisions in respect of cases coming under article 3 of the Convention.

The State party keep under constant review the use of instruments of restraint that may cause unnecessary pain and humiliation, and ensure that their use is appropriately recorded.

The State party ensure that complainants are protected against intimidation and adverse consequences as a result of their complaint.

- Canada, CAT, A/56/44 (2001) 24 at paras. 58 and 59.

Paragraph 58

Concern is expressed over the following:

The position of the State party in arguments before courts, and in policies and practices that, when a person is considered a serious criminal or security risk, the person can be returned to another state even where there are substantial grounds for believing that the individual would be subjected to torture, an action which would not be in conformity with the absolute character of the provisions of Article 3(1) of the Convention.

The public danger risk assessment, without interview or transparency, is carried out prior to the refugee determination procedure, and, if a person is considered a security risk, this person is not eligible to have his case examined in-depth under the normal refugee determination procedure. In addition, it is noted that at present both the review of security risk and the review of the existence of humanitarian and compassionate grounds are determined by the same governmental body. The alleged lack of independence of decision-makers, as well as the possibility that a person can be removed while an application for humanitarian review is underway, may constitute obstacles to the effectiveness of the remedies to protect the rights in article 3(1) of the Convention.

The lack of adequate measures taken in regards to breaches of the norms of the Convention as required by article 7(1)

EFFECTIVE REMEDIES - GENERAL

The possibility that an accused torturer could still plead a number of defenses that would grant him/her immunity, including that foreign proceedings had been conducted for the purpose of shielding the accused from criminal responsibility; that the offense was committed in obedience of the law in force at the time; or that the accused had a motivation other than an intention to be inhumane.

Paragraph 59

It is recommended that the State party:

Comply fully with article 3(1) of the Convention prohibiting return of a person to another state where there are substantial grounds for believing that the individual would be subjected to torture, whether or not the individual is a serious criminal or security risk.

Enhance the effectiveness of the remedies to protect the rights granted by article 3(1) of the Convention. Noting the assurances that the proposed new Immigration and Refugee Act provides for a pre-removal risk assessment "available to all persons under a removal order", the State party is encouraged to ensure that the proposed new legislation permits in-depth examination by an independent entity of claims, including those from persons already assessed as security risks. The State party is urged to ensure that obstacles to the full implementation of article 3 are removed, so that an opportunity is given to the individual concerned to respond before a security risk decision is made, and that assessments of humanitarian and compassionate grounds are made without demanding a fee from a person who seeks protection.

Prosecute every case of an alleged torturer in a territory under its jurisdiction where it does not extradite that person and the evidence warrants it, and prior to any deportation.

Remove from current legislation the defences that could grant an accused torturer immunity.

Consider the creation of a new investigative body for receiving and investigating complaints regarding the Convention, such as those pertaining to the subjects of concern cited above, including allegations related to members of the indigenous population.

- Cameroon, CAT, A/56/44 (2001) 28 at paras. 65 and 66.

Paragraph 65

The following is of concern:

The continuing practice of administrative detention, which allows the authorities reporting to or forming part of the executive power (the Ministry of the Interior) to violate individual liberty, something which, under the rule of law, should come under the jurisdiction of the judiciary.

EFFECTIVE REMEDIES - GENERAL

The gap between the adoption of rules in accordance with human rights standards, including those designed to prevent the practice of torture, and the findings made in situ by an independent entity such as the Special Rapporteur on the question of torture, who reports the existence of numerous cases of torture.

The imbalance between the large number of allegations of torture or ill-treatment and the small number of prosecutions and trials.

The absence of legislative provisions rendering evidence obtained through torture inadmissible, pursuant to article 15 of the Convention.

The fact that security considerations seem to be given precedence over all other matters, including the prohibition of torture.

Paragraph 66

It is recommended that the State party:

Introduce provisions into its legislation for the inadmissibility of evidence obtained through torture, except in the case of acts carried out against the perpetrator of torture in order to prove that an act of torture has been committed.

Ensure the effective implementation of the instructions from the Minister of Justice that pre-trial detention must take place only when absolutely necessary and that provisional release should be the rule, especially since this could help to deal with the problem of prison overcrowding.

Pursue energetically any inquiries already under way into allegations of human rights violations and, in cases which have yet to be investigated, give the order for prompt and impartial inquiries to be opened.

Ensure scrupulous respect for the human rights of persons arrested in the context of efforts to combat highway robbery.

- Georgia, CAT, A/56/44 (2001) 35 at paras. 81 and 82.

Paragraph 81

Concern is expressed over the following:

The admitted continuing acts of torture and other acts of cruel, inhuman or degrading treatment or punishment in Georgia committed by law enforcement personnel.

EFFECTIVE REMEDIES - GENERAL

The failure to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture, as well as insufficient efforts to prosecute alleged offenders in non-compliance with articles 12 and 13 of the Convention, resulting in a state of impunity of alleged offenders.

Amendments to the new Criminal Procedural Code shortly after its entry into force, compromising some of the human rights protections previously provided for in the code, particularly the right of judicial review of complaints of ill-treatment.

The instances of mob violence against religious minorities, in particular Jehova's witnesses, and the failure of the police to intervene and take appropriate action despite the existence of the legal tools to prevent and prosecute such acts and the risk of this apparent impunity resulting in such acts becoming widespread.

The lack of adequate access for persons deprived of liberty to counsel and doctors of their choice as well as visits of family members.

Certain powers of the procuracy and the problems created by its methods of functioning, which raises serious concerns regarding the existence of an independent mechanism to hear complaints; as well as doubts as to the objectivity of the procuracy, and the objectivity of the courts and medical experts.

Paragraph 82

It is recommended that:

The State party amend its domestic penal law to include a definition of torture which is fully consistent with the definition contained in article 1 of the Convention, and provide for appropriate penalties.

Measures be taken to ensure that all persons deprived of their liberty or arrested by law enforcement officials: i) are informed promptly of their rights, including the right to complain to the authorities against ill-treatment, the right to be informed promptly of the charges against them and the right to counsel and doctor of their choice; ii) have prompt access to counsel and doctor of their choice as well as family members.

The State party should desist from the practice by its law enforcement officers of characterizing suspects under detention as witnesses, which has had the effect of denying them the right to have the assistance of a lawyer.

In order to ensure that perpetrators of torture do not enjoy impunity, urgent steps be taken to: i) establish an effective and independent complaints mechanism; ii) make provisions for the

EFFECTIVE REMEDIES - GENERAL

systematic review of all convictions based upon confessions that may have been obtained through torture; iii) make adequate provisions for compensation and rehabilitation of victims of torture.

Concrete measures be taken to reform the procuracy in line with the reform of the judicial system and to ensure the full implementation of the legal provisions safeguarding human rights in practice.

Effective measures be taken to prosecute and punish violence against women as well as trafficking in women, including adopting appropriate legislation, conducting research and raising awareness of the problem as well as including the issue in the training of law enforcement officials and other relevant professional groups.

- Bolivia, CAT, A/56/44 (2001) 40 at para. 97.

It is recommended that the State party:

Incorporate in its criminal legislation the definition of torture as set forth in the Convention, make torture a crime and stipulate penalties commensurate with its seriousness;

Adopt the necessary legal and administrative measures to set up a national public register of persons deprived of liberty, indicating the authority which ordered such deprivation, the grounds for the relevant decisions and the type of proceedings;

Adopt the necessary measures to ensure effective compliance by government procurators with their duty to conduct criminal investigations into any complaint of torture and cruel, inhuman or degrading treatment in a prompt and impartial manner; during these investigations, the accused officials should be suspended from their duties;

Set up a centralized public register of complaints of torture and ill-treatment and of the results of the investigations;

Adopt all necessary measures to guarantee the free exercise by human rights defenders of their right to promote respect for such rights, to report violations of this right and to defend victims;

Adopt all necessary measures to ensure that every person deprived of liberty exercises his/her right to a defence and receives the assistance of a lawyer, if necessary at the expense of the State;

Review the disciplinary procedures and rules in prisons so as to ensure that violations are dealt with impartially and that any inhuman and cruel punishments are excluded;

EFFECTIVE REMEDIES - GENERAL

Adopt adequate measures to 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; steps must be taken to ensure that these persons have the possibility of explaining these grounds in impartial and adversarial proceedings whose findings are subject to review by a higher authority.

- Slovakia, CAT, A/56/44 (2001) 43 at paras. 104 and 105.

Paragraph 104

Concern is expressed about the following:

Exceptions to the guarantees of article 3, regarding the return of persons at risk of torture, in contradiction to the absolute prohibition of article 3.

Allegations of instances of police participation in attacks on Roma and other members of the population, as well as allegations of inaction by police and law enforcement officials who fail to provide adequate protection against racially motivated attacks when such groups have been threatened by 'skinheads' or other extremist groups.

Failure on the part of the authorities to carry out prompt, impartial and thorough investigations into allegations of such actions or to prosecute and punish those responsible.

Allegations of harassment of human rights defenders as well as threats, reportedly to deter submission of complaints, which are allegedly not adequately investigated.

The lack of adequate guarantees of the rights of persons deprived of liberty to have access to counsel and a doctor of his or her choice, as well as prompt medical exams.

Paragraph 105

It is recommended that the State party:

Take measures to initiate an effective, reliable and independent complaint system to undertake prompt, impartial, and effective investigations into allegations of ill-treatment or torture by police and other public officials, and where the findings are warranted, to prosecute and punish alleged perpetrators.

Adopt measures to ensure that statements or information obtained through coercion are not admissible as evidence in courts and that legal provisions permitting the use of physical force by police officials be reviewed, revised, as appropriate, and implemented in accordance with the requirements of the Convention.

EFFECTIVE REMEDIES - GENERAL

Protect human rights defenders from harassment and threats that undermine their capacity to monitor and provide assistance to those alleging human rights violations.

Take effective steps to guarantee the independence of the judiciary, so as to strengthen the rule of law and democratic governance, essential for implementation of the Convention.

- Czech Republic, CAT, A/56/44 (2001) 46 at paras. 113 and 114.

Paragraph 113

Concern is expressed over the following:

Instances of racism and xenophobia in society, including the increase in racially motivated violence against minority groups, as well as the increase in groups advocating such conduct.

Allegations of the excessive use of force by law enforcement officials during and after demonstrations, particularly alleged instances of cruel, inhuman and degrading treatment of persons arrested and detained as a result of the demonstrations during the IMF/World Bank meeting in Prague in September 2000.

The lack of a mechanism of external control of the work of the police.

The lack of adequate guarantees of the rights of persons deprived of liberty to notify a close relative or third party of their choice, to have access to doctors of their choice and to have access to counsel as from the outset of their custody.

The lack of legal regulation of external inspections of the prison system, in particular the rescinding of the legal provisions on civil inspection without replacement during the period under review, as well as the lack of an effective mechanism for processing prisoners' complaints.

Paragraph 114

It is recommended that:

The State party continue its efforts to counter all forms of discrimination against minorities and to implement its long-term policy aimed at the integration of the Roma population through legal as well as practical measures, and, in particular, to increase efforts to combat and adequately sanction police ill-treatment of minorities and their failure to provide them with adequate protection.

The State party ensure the independence and thoroughness of investigations of all allegations of ill-treatment in general and in connection with the IMF/World Bank meeting in September 2000 in particular.

EFFECTIVE REMEDIES - GENERAL

The State party take appropriate measures to ensure the independence of investigations of offences committed by law enforcement officials by introducing a mechanism of external control.

All persons deprived of their liberty should be guaranteed the rights to notify a close relative or third party of their choice, the right to have access to a lawyer of their choice, as from the very outset of their custody, and the right to have access to a doctor of their choice in addition to any medical examination carried out by the police authorities.

The State party set up an effective and independent system of control over prisoners complaints and for the external and civic inspection of the prison system.

- Brazil, CAT, A/56/44 (2001) 49 at para. 118.

The following is noted with satisfaction:

The promulgation, in April 1997, of Law No. 9455/97 (Torture Act), which introduced into Brazilian criminal law the categorization of torture as an offence, with appropriate penalties;

The external monitoring of the police by the Public Prosecutor's Office and the efforts to reinforce external and independent supervision through the appointment of police ombudsmen in several states.

- Kazakhstan, CAT, A/56/44 (2001) 52 at para. 129.

It is recommended that the State party:

Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture.

Proceed with the adoption of measures to permit defence counsel to gather evidence, and to be involved in cases from the very start of the detention period, and to ensure that doctors will be provided on the request of detained persons, rather than the orders of prison officials.

Ensure the training of specialized personnel to identify signs of physical and psychological torture and ensure, when such personnel are requalified, that their examinations include awareness of the Convention's requirements.

- Costa Rica, CAT, A/56/44 (2001) 55 at paras. 134 and 136.

EFFECTIVE REMEDIES - GENERAL

Paragraph 134

The following is noted with satisfaction:

The supremacy of international human rights instruments in general and the Convention in particular over domestic law, including the Constitution, to the extent that they contain broader rights and guarantees than those recognized in the latter;

The inclusion in domestic law of provisions that permit the extraterritorial enforcement of criminal law in order to prosecute and punish persons responsible for torture;

The adequate legal and institutional regime for the protection and promotion of human rights, in particular:

- (i) The adequate constitutional and legal regulation of the remedies of *habeas corpus* and *amparo*, and the broad interpretation of those provisions by the national courts;
- (ii) The autonomy and powers of the ombudsman's office;
- (iii) The existence of numerous bodies and institutions available to the persons concerned for lodging complaints of torture or cruel, inhuman or degrading treatment;
- (iv) The system of monitoring of police activities.

Paragraph 136

It is recommended that the State party make the declarations provided for in articles 21 and 22 of the Convention.

See also:

- Bolivia, CAT, A/56/44 (2001) 40 at para. 97.

CRC

- El Salvador, CRC, CRC/C/20 (1993) 19 at para. 94.

Urgent measures should be adopted for the protection of children belonging to vulnerable groups, in particular displaced and refugee children, disabled and homeless children, as well as children subject to abuse or violence within the family. Such measures should encompass social assistance and rehabilitation programmes oriented towards those groups of children and should

EFFECTIVE REMEDIES - GENERAL

be undertaken, with the cooperation and support of the relevant United Nation agencies and international organizations, in the spirit of article 45 (b) of the Convention.

- Mexico, CRC, CRC/C/24 (1994) 12 at para. 42.

The State party should intensify its action against all violence resulting in cases of ill-treatment of children, in particular when committed by members of the police force and security services and the military. The State party should ensure that cases of crimes committed against children by members of the armed forces or the police are tried before civilian courts.

- Pakistan, CRC, CRC/C/29 (1994) 10 at paras. 53 and 57.

Paragraph 53

The State party should develop awareness-raising and training programmes to combat violence against children and prevent their abuse, neglect, abandonment and ill-treatment. Such programmes should be addressed, among others, to parents, teachers and law enforcement officials. Consideration should also be given to the establishment of effective complaints procedures in such cases.

Paragraph 57

The State party should evaluate thoroughly the adequacy of measures taken to deal with issues of the exploitation of children. In light of the legislation recently adopted in this area, namely the Employment of Children Act and the Bonded Labour System (Abolition) Act, as well as the conclusions of the Asian Regional Seminar on Children in Bondage, held at Islamabad, the importance of measures to be taken for their enforcement, particularly through the establishment of complaints and inspection procedures and vigilance committees is emphasized. A rehabilitation programme for children released from bonded labour is also recommended.

- Philippines, CRC, CRC/C/38 (1995) 12 at para. 73.

Adequate procedures and mechanisms should be developed to deal with complaints of child ill-treatment. Cases of violations of children's rights should be duly investigated and the results of such investigations should be given publicity.

- Colombia, CRC, CRC/C/38 (1995) 16 at para. 93.

EFFECTIVE REMEDIES - GENERAL

Firm measures should be taken to ensure the right to survival for all children, including those who live in of poverty, who have been abandoned, or those who to survive are forced to live and/or work in the streets. Such measures should aim at the effective protection of children against the occurrence of violence, disappearance, assassination or alleged organ trafficking. Thorough and systematic investigations should be carried out and severe penalties applied to those found responsible for such violations of children's rights. Violations of human rights and children's rights should always be examined by civilian courts under civilian law, not military courts. The outcome of investigations and cases of convictions should be widely publicized in order to deter future offences and thus combat the perception of impunity.

- Ukraine, CRC, CRC/C/46 (1995) 11 at para. 67.

Further consideration should be given to the establishment of an ombudsperson for children, or of any equivalent permanent and independent complaint and monitoring mechanism.

See also:

- Republic of Korea, CRC, CRC/C/50 (1996) 26 at para. 172.
- Fiji, CRC, CRC/C/79 (1998) 18 at para. 129.

- Yugoslavia (Serbia and Montenegro), CRC, CRC/C/50 (1996) 17 at paras. 101 and 116-118.

Paragraph 101

That social welfare agencies and services might enjoy wide discretionary powers to the detriment of the application of the principle of the rights of the child as the framework for the functioning of the administration of the juvenile justice system is a concern. The apparent lack of mechanisms for the registration by children of complaints of ill-treatment and for the full and impartial investigation of those complaints is also a cause for concern.

Paragraph 116

The State party should consider as a matter of priority the further development of rehabilitative programmes. In this regard, the problem of the apparent scarcity and inadequacy of programmes for the treatment of post-traumatic stress disorders, identified primarily in refugee children, needs to be adequately addressed.

Paragraph 117

In the case of alleged violations of human rights committed by groups of individuals, the responsibility of the authorities to undertake measures to protect children from such acts is emphasized. Those accused of abuses should be tried and, if found guilty, punished. In addition,

EFFECTIVE REMEDIES - GENERAL

the outcome of investigations and cases of convictions should be widely publicized in order to combat any perception of impunity.

Paragraph 118

The State party should consider the possibility of reviewing its legislation in relation to the age of sexual consent in the light of the concerns raised on this matter by the Committee. Serious consideration should be given to the possibility of allocating further resources for programmes for the prevention of sexual abuse and exploitation and the rehabilitation of victims, including training of and support to the professionals dealing with these issues and the development of an integrated and coordinated approach to assist both the victims and the perpetrators of such abuse. In connection with this point, the State party should consider greater use of the media in relation to awareness-raising and education on the dangers of sexual exploitation and abuse and the issues of HIV/AIDS and other sexually transmitted diseases.

- Iceland, CRC, CRC/C/50 (1996) 23 at para. 128.

The establishment of the Office of Children's Ombudsman is welcomed, as is its role of disseminating among the public information on the rights of the child and of encouraging compliance with international instruments.

- Republic of Korea, CRC, CRC/C/50 (1996) 26 at para. 177.

The State should adopt further measures to prevent situations of child abuse and domestic violence and to protect and ensure appropriate physical recovery and social reintegration of children affected thereby. Consideration should be given to the establishment of a system of early detection, surveillance and referral.

- Croatia, CRC, CRC/C/50 (1996) 31 at para. 190.

The Committee welcomes the intentions expressed by the Government to prosecute people who committed crimes against the civilian population, including children, during and after "Operation Storm" in August 1995 in the Krajina area and to provide safe conditions for returnees.

- Nepal, CRC, CRC/C/54 (1996) 25 at paras. 178 and 188.

Paragraph 178

EFFECTIVE REMEDIES - GENERAL

A multidisciplinary monitoring system should be established to assess the progress achieved and difficulties encountered in the realization of the rights recognized by the Convention at the central and local levels, paying particular attention to the adverse effects of economic policies on children. Such a monitoring system should enable the State party to shape appropriate policies and to combat prevailing social disparities and traditional prejudices. The State party should consider the establishment of an independent mechanism, such as an Ombudsperson or a human rights commission, to monitor the realization of the rights of the child and to deal with individual complaints relating thereto.

Paragraph 188

The establishment of a commission on human rights or other independent mechanism to monitor the realization of children's rights issues should be considered.

- Cyprus, CRC, CRC/C/54 (1996) 38 at para. 259.

The State party should consider extending the mandate of the Ombudsperson to enable him/her to receive and process all complaints relating to all types of issues affecting children.

- Mauritius, CRC, CRC/C/57 (1996) 29 at para. 192.

The penal law should be amended so that adults having sexual intercourse with boys under 16 is considered a crime. The State party should consider seeking technical assistance for this purpose from the High Commissioner for Human Rights/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the United Nations.

- Ethiopia, CRC, CRC/C/62 (1997) 12 at para. 75.

Since children are able to lodge complaints only through their parents or legal guardians, the right to adequate recourse and complaint procedures for children victims of abuse, including sexual abuse, neglect or ill-treatment within their families, does not seem to be secured and is of concern. The enjoyment by children of their right to participate actively in the promotion of their own rights does not seem to be guaranteed and is also of concern.

- Myanmar, CRC, CRC/C/62 (1997) 25 at para. 175.

EFFECTIVE REMEDIES - GENERAL

All reported cases of abuse, rape and/or violence against children committed by members of the armed forces should be rapidly, impartially, thoroughly and systematically investigated. Appropriate judicial sanctions should be applied to perpetrators and wide publicity should be given to such sanctions.

- Cuba, CRC, CRC/C/66 (1997) 9 at para. 72.

The Criminal Code should provide for the protection of children up to the age of 18 from sexual exploitation.

- Bangladesh, CRC, CRC/C/66 (1997) 22 at paras. 162 and 167.

Paragraph 162

Additional measures are needed to combat violence against and abuse of children, including sexual abuse. Programmes for the rehabilitation and reintegration of traumatized children need to be developed and adequate procedures and mechanisms devised to deal with complaints of both physical and psychological ill-treatment. Allegations of violations of children's rights should be investigated and prosecuted.

Paragraph 167

Regulations to prevent child labour should be enforced, complaints investigated and severe penalties imposed for violations. Efforts to provide opportunities for education and leisure to child workers and children working and/or living on the street should be strengthened. It is also suggested that the State party consider ratifying ILO Convention No. 138 concerning the minimum age for employment.

- Lao People's Democratic Republic, CRC, CRC/C/69 (1997) 8 at para. 71.

Adequate procedures and mechanisms to deal with complaints of child abuse should be developed, such as multidisciplinary teams to handle cases, special rules of evidence, and special investigators or community focal points.

- Australia, CRC, CRC/C/69 (1997) 16 at paras. 89 and 108.

Paragraph 89

Although the Convention on the Rights of the Child has been declared a relevant international instrument under the Human Rights and Equal Opportunity Act, 1986, which enables the Human

EFFECTIVE REMEDIES - GENERAL

Rights and Equal Opportunity Commission to refer to the Convention when it is considering complaints, this does not give rise to legitimate expectations that an administrative decision will be made in conformity with the requirements of that instrument and this is of concern. Of further concern is that there is no right of citizens to launch complaints in the local courts on the basis of the Convention on the Rights of the Child.

Paragraph 108

All appropriate measures, including of a legislative nature, should be taken to prohibit corporal punishment in private schools and at home. Awareness-raising campaigns should be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity. Cases of abuse and ill-treatment of children, including sexual abuse within the family, should be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken. Further measures should be taken with a view to ensuring the physical and psychological recovery and social reintegration of the victims of abuse, neglect, ill-treatment, violence or exploitation.

- Libyan Arab Jamahiriya, CRC, CRC/C/73 (1998) 9 at paras. 51 and 57.

Paragraph 51

The introduction of a number of policies and programmes that guarantee implementation of existing legislation through adequate services, remedies and rehabilitation programmes should be considered.

Paragraph 57

All appropriate measures, including of a legislative nature, should be taken with the aim of prohibiting corporal punishment at home. Awareness-raising campaigns should be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity. Cases of abuse and ill-treatment of children, including rape and sexual abuse within the family, should be properly investigated, sanctions should be applied to perpetrators and publicity should be given to decisions taken in such cases, with due regard given to protecting the right to privacy of the child. Further measures should be taken with a view to ensuring the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, and the prevention of criminalization and stigmatization of victims.

See also:

- Ireland, CRC, CRC/C/73 (1998) 14 at para. 101.

EFFECTIVE REMEDIES - GENERAL

- Hungary, CRC, CRC/C/79 (1998) 7 at para. 57.

All appropriate measures should be taken to prevent and combat ill-treatment of children, including physical and sexual abuse within the family, at school and in child-care institutions. Prevention campaigns, including through education, should be undertaken to protect children against abuse and maltreatment. Comprehensive studies on these issues should be initiated in order to understand them better and to facilitate the elaboration of policies and programmes, including rehabilitation programmes, to combat them effectively.

- Fiji, CRC, CRC/C/79 (1998) 18 at para. 136.

All appropriate measures, including revision of legislation, should be taken to prevent and combat ill-treatment within the family, including domestic violence and sexual abuse of children. Authorities should set up social programmes to prevent all types of child abuse as well as to rehabilitate the child victims. Law enforcement should be strengthened with respect to such crimes; and adequate procedures and mechanisms to deal with complaints of child abuse should be developed, such as special rules of evidence and special investigators or community focal points.

- Japan, CRC, CRC/C/79 (1998) 25 at paras. 153, 165, 178 and 186.

Paragraph 153

It is noted with concern that in practice the courts usually do not directly apply international human rights treaties in general and the Convention on the Rights of the Child in particular.

Paragraph 165

The increase of child abuse and ill-treatment, including sexual abuse, within the family is of concern. The insufficient measures that have been taken to ensure that all cases of abuse and ill-treatment of children are properly investigated, sanctions applied to perpetrators and publicity given to decisions taken are also of concern. The Committee is also concerned about the insufficient measures taken to ensure the early identification, protection and rehabilitation of abused children.

Paragraph 178

The necessary steps should be taken to establish an independent monitoring mechanism, either by improving and expanding the existing system of "Civil Liberties Commissioners for the Rights of the Child" or by creating an Ombudsperson or a Commissioner for Children's Rights.

Paragraph 186

EFFECTIVE REMEDIES - GENERAL

Cases of abuse and ill-treatment of children should be properly investigated, sanctions should be applied to perpetrators and publicity should be given to decisions taken in order to enhance understanding of this phenomenon, and in order to achieve this, an easily accessible and child-friendly complaint procedure should be established.

- Ecuador, CRC, CRC/C/80 (1998) 9 at para. 44.

The culturally accepted and justified practice of child abuse is of concern. It is recommended that all appropriate steps be taken, including setting up social programmes and introducing rehabilitation measures to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. Law enforcement should be strengthened with respect to such crimes and adequate procedures and mechanisms to deal with complaints of child abuse should be developed. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue. To this effect International cooperation from UNICEF and international non-governmental organizations should be considered.

- Iraq, CRC, CRC/C/80 (1998) 15 at paras. 65, 68, 78 and 85.

Paragraph 65

The State party should consider introducing a number of policies and programmes that guarantee law enforcement and implementation of existing legislation through adequate services, remedies and rehabilitation programmes, when appropriate within the framework of international cooperation.

Paragraph 68

An independent mechanism should be made accessible to children to deal with complaints of violations of their rights and to provide remedies for such violations.

Paragraph 78

Studies should be undertaken on ill-treatment and abuse, including sexual abuse, and adequate measures and policies should be adopted, with a view to changing traditional attitudes. Cases of abuse and ill-treatment of children, including sexual abuse within the family, should be properly investigated, sanctions should be applied to perpetrators and publicity should be given to decisions taken in such cases, and due regard should be given to protecting the right to privacy of the child. Further measures should be taken with a view to ensuring the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation.

Paragraph 85

EFFECTIVE REMEDIES - GENERAL

The importance of educating parents, children and the general public about the dangers of landmines and of implementing rehabilitation programmes for victims of landmines is stressed. The situation with respect to landmines should be reviewed within a framework of international cooperation, including from United Nations agencies. The State party should consider becoming a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and of Their Destruction (1997).

See also:

- Saint Kitts and Nevis, CRC, CRC/C/87 (1999) 17 at para. 74.
- Bolivia, CRC, CRC/C/80 (1998) 22 at para. 107.

All appropriate measures should be taken to prevent and combat ill-treatment and sexual abuse of children within the family, schools and society at large. Social programmes should be set up to prevent all types of child abuse and to rehabilitate victims. Law enforcement should be strengthened with respect to such crimes and adequate procedures and mechanisms to deal with complaints of child abuse should be developed.

- Kuwait, CRC, CRC/C/80 (1998) 28 at paras. 130 and 140.

Paragraph 130

Appropriate measures should be taken to ensure that the unit within the Ministry of Justice that deals with human rights issues is better known, including how it can be used by or on behalf of children to make complaints in the case of violations of their rights and to seek remedy for such violations.

Paragraph 140

The insufficient awareness of and lack of information on domestic violence, ill-treatment and abuse, including sexual abuse, both within and outside the family, the insufficient legal protection measures and insufficient resources, as well as at the lack of adequately trained personnel to prevent and combat such abuse are matters of concern. Multidisciplinary studies on the nature and scope of ill-treatment and abuse, including sexual abuse, should be undertaken with a view to adopting adequate measures and policies and in order to change traditional attitudes. A special complaint mechanism should be established for children to report such ill-treatment, domestic violence and abuse. Cases of abuse and ill-treatment of children, including sexual abuse within the family, should be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken in such cases, due regard being given to protecting the right to privacy of the child. Furthermore, consideration should be given to adopting child-friendly rules for the provision of evidence in such proceedings. Further measures should be taken with a view to

EFFECTIVE REMEDIES - GENERAL

ensuring the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, and the prevention of criminalization and stigmatization of victims.

See also:

- Thailand, CRC, CRC/C/80 (1998) 35 at para. 174.

- Belize, CRC, CRC/C/84 (1999) 12 at paras. 70 and 81.

Paragraph 70

The absence of an independent mechanism to register and address complaints from children concerning violations of their rights is of concern. An independent child-friendly mechanism should be made accessible to children to deal with complaints of violations of their rights and to provide remedies for such violations. Awareness-raising campaigns should be undertaken to facilitate the effective use by children of such a mechanism.

Paragraph 81

The lack of awareness and information on domestic violence, ill-treatment and abuse of children, including sexual abuse, and the lack of appropriate financial and human resources remain matters of grave concern. Of particular concern is that domestic legislation on sexual abuse does not include protective measures for boys. Studies on domestic violence, ill-treatment and sexual abuse should be undertaken in order to adopt adequate measures and policies and help change traditional attitudes. Cases of domestic violence, ill-treatment and sexual abuse of children should be properly investigated within a child-friendly judicial procedure, sanctions should be applied to perpetrators and publicity should be given to decisions taken in such cases, with due regard for the right to privacy of the child. Measures should also be taken to ensure the physical and psychological recovery and social reintegration of victims. The proposal to introduce legislation should be implemented, making the reporting of child abuse mandatory, and legal reform should be undertaken to ensure that boys are protected. Technical assistance should be sought from UNICEF.

See also:

- Thailand, CRC, CRC/C/80 (1998) 35 at para. 164.
- Mali, CRC, CRC/C/90 (1999) 43 at para. 204.
- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 461 and 462.
- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), CRC, CRC/C/100 (2000) 40 at paras. 223 and 224.

EFFECTIVE REMEDIES - GENERAL

- Guinea, CRC, CRC/C/84 (1999) 21 at para. 113.

The insufficient awareness and lack of information on ill-treatment and abuse, including sexual abuse, both within and outside the family, and the insufficient legal protection measures, resources and trained personnel to prevent and combat such abuses are matters of concern. All appropriate measures, including revision of legislation, should be taken to prevent and combat ill-treatment, including domestic violence and sexual abuse of children. Law enforcement should be strengthened with respect to such crimes; adequate procedures and mechanisms to deal with complaints of child abuse should be developed, such as special rules of evidence, and special investigators or community focal points.

See also:

- Chad, CRC, CRC/C/87 (1999) 45 at para. 189.

- Saint Kitts and Nevis, CRC, CRC/C/87 (1999) 17 at paras. 84 and 86.

Paragraph 84

A study should be undertaken to assess the situation of boys within the family environment and their susceptibility to placement in alternative and/or foster care. Additional training, including in children's rights, for social and welfare workers as well as the establishment of an independent complaints mechanism for children in alternative care institutions is recommended.

Paragraph 86

Studies should be undertaken on domestic violence, ill-treatment and sexual abuse in order to adopt adequate policy measures and contribute to changing traditional attitudes. Cases of domestic violence, ill-treatment and sexual abuse of children should be properly investigated within a child-friendly judicial procedure and sanctions should be applied to perpetrators, with due regard given to protecting the right to privacy of the child. Measures should also be taken to ensure the physical and psychological recovery and social reintegration of victims and the prevention of criminalization and stigmatization of victims. Technical assistance should be sought from UNICEF.

See also:

- Grenada, CRC, CRC/C/94 (2000) 72 at para. 392.
- South Africa, CRC, CRC/C/94 (2000) 81 at para. 440.
- United Kingdom of Great Britain and Northern Ireland (Isle of Man), CRC, CRC/C/100 (2000) 31 at para. 180.
- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), CRC, CRC/C/100 (2000) 40 at para. 242.

EFFECTIVE REMEDIES - GENERAL

- Nicaragua, CRC, CRC/C/87 (1999) 54 at paras. 233 and 237.

Paragraph 233

Judicial mechanisms should be reinforced to deal with complaints of police brutality, ill-treatment and abuse of children, and cases of abuse of children should be duly investigated.

Paragraph 237

All appropriate measures should be taken, including setting up multidisciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and other institutions, including the juvenile justice system, and in society at large. Law enforcement should be strengthened with respect to such crimes and adequate child-friendly procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice to avoid impunity for the offenders. Educational programmes should be established to combat traditional attitudes within society regarding this issue. To this effect, international cooperation should be sought from UNICEF and international non-governmental organizations.

See also:

- Honduras, CRC, CRC/C/87 (1999) 26 at para. 120.
 - Cambodia, CRC, CRC/C/97 (2000) 64 at para. 373.
 - Colombia, CRC, CRC/C/100 (2000) 64 at para. 368.
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- Venezuela, CRC, CRC/C/90 (1999) 10 at para. 47.

Concern is expressed over the alleged cases of killings of children during anti-crime operations. Effective measures to prevent the killing of children should be undertaken in order to avoid impunity of the alleged perpetrators. Judicial mechanisms should be used to investigate these killings.

- Russian Federation, CRC, CRC/C/90 (1999) 18 at paras. 70, 71, 97 and 133.

Paragraph 70

The limited powers and status of the Human Rights Commissioner and pilot projects for child rights commissioners, as well as the crucial need for an independent monitoring structure to review implementation of the Convention remain of concern.

Paragraph 71

The establishment of an independent Ombudsman for children at the federal level should be considered with clear links to similar mechanisms at regional levels, each with a clearly defined and appropriate mandate, including the monitoring of care and juvenile justice structures, and powers and resources sufficient to guarantee effectiveness.

EFFECTIVE REMEDIES - GENERAL

Paragraph 97

The State party should promote child-friendly procedures for complaint, investigation and presentation of evidence for child victims of violence and abuse, and reinforce the investigation and prosecution of crimes committed, and the appropriate punishment of perpetrators.

Paragraph 133

Immediate measures should be taken to protect the rights of children deprived of their liberty, by providing legal assistance to children and by improving conditions in places of detention, including pre-trial detention centres and educational colonies. Further, the establishment of an appropriate and independent child-friendly complaint mechanism in cooperation with NGOs, and the timely addressing of rights violations observed and programmes to assist in the rehabilitation and reinsertion into society of juveniles following their release from detention are also recommended.

- Vanuatu, CRC, CRC/C/90 (1999) 29 at para. 152.

The lack of data, appropriate measures, mechanisms and resources to prevent and combat domestic violence, including child sexual abuse, are matters of grave concern. Studies should be undertaken on domestic violence, ill-treatment and abuse, including sexual abuse, to understand the scope and nature of these practices, adopt adequate measures and policies, and contribute to changing attitudes. Cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, should be properly investigated within a child-friendly judicial procedure, sanctions should be applied to perpetrators, and due regard should be given to protecting privacy rights of the child. Measures should also be taken to ensure the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, and the prevention of criminalization and stigmatization of victims. In this connection, technical assistance should be sought from UNICEF and WHO.

See also:

- Mali, CRC, CRC/C/90 (1999) 43 at para. 217.

- Mexico, CRC, CRC/C/90 (1999) 34 at paras. 182 and 184.

Paragraph 182

The persistent number of alleged cases of children who have been detained in extreme conditions which amount to cruel, inhuman or degrading treatment, and the cases of children physically ill-treated by members of the police or the armed forces, remain of concern. Judicial mechanisms should be reinforced to deal effectively with complaints of police brutality, ill-treatment and abuse

EFFECTIVE REMEDIES - GENERAL

of children, and cases of violence and abuse against children should be duly investigated in order to avoid the impunity of perpetrators.

Paragraph 184

Physical and sexual abuse - within and outside the family - is a serious problem in the State party. Concern is expressed that domestic legislation, at both the federal and state levels, does not explicitly prohibit the use of corporal punishment in schools. Effective measures, including setting up multidisciplinary treatment and rehabilitation programmes, should continue to be taken to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. Law enforcement should be strengthened with respect to such crimes, adequate procedures and mechanisms to deal effectively with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and the use of corporal punishment at home, in schools and other institutions, should be explicitly prohibited by law. Educational programmes should be established to combat traditional attitudes within society regarding this issue.

See also:

- Peru, CRC, CRC/C/94 (2000) 64 at para. 375.

- Mali, CRC, CRC/C/90 (1999) 43 at para. 215.

The insufficient number of alternative care facilities, the lack of support for existing ones, the living conditions in alternative care institutions, the inadequate monitoring of placements and the limited number of qualified personnel in this field, are matters of concern. Additional programmes should be developed to facilitate alternative care, additional training for social and welfare workers should be provided and independent complaint and monitoring mechanisms for alternative care institutions should be established. A clear policy with respect to foster care should be developed and measures should be introduced to ensure a standardized approach with respect to recruitment, monitoring and evaluation under existing foster care programmes.

- The Netherlands, CRC, CRC/C/90 (1999) 53 at para. 256.

Due attention should be given to efforts taken to settle complaints of ill-treatment in Youth Custodial Institutions promptly through a mediation procedure that will not result in less than thorough investigations.

- India, CRC, CRC/C/94 (2000) 10 at paras. 51, 72, 77, 85, 96, 100, 101, 107 and 108.

EFFECTIVE REMEDIES - GENERAL

Paragraph 51

The State party is encouraged to establish a statutory, independent national commission for children with the mandate of, *inter alia*, regularly monitoring and evaluating progress in the implementation of the Convention at the federal, state and local levels. Further, such a commission should be empowered to receive and address complaints of violations of child rights, including with respect to the security forces.

Paragraph 72

The State party should implement the recommendations made by the National Police Commission in 1980 and the Parliamentary Committee in 1996, which, *inter alia*, call for a mandatory judicial inquiry in cases of alleged rape, death or injury of persons in police custody; the establishment of investigative bodies; and payment of compensation to people who have been victims of custodial abuse. Amendment to the Juvenile Justice Act is recommended to provide for complaints and prosecution mechanisms for cases of custodial abuse of children. Section 43 of the Police Act should be amended so that police cannot claim immunity for actions while executing a warrant in cases of illegal detention or custodial abuse.

Paragraph 77

Legislative measures should be taken to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools and care institutions. Programmes for the rehabilitation and reintegration of abused children need to be strengthened, and adequate procedures and mechanisms established to receive complaints, monitor, investigate and prosecute instances of ill-treatment.

Paragraph 85

In the light of Commission on Human Rights resolution 1993/77, on forced evictions, the State party is encouraged to prevent any occurrence of forced relocation, displacement and other types of involuntary population movements. Resettlement procedures and programmes should include registration, facilitate comprehensive family rehabilitation and ensure access to basic services.

Paragraph 96

The State party should at all times ensure respect for human rights and humanitarian law aimed at the protection and care of children in armed conflict. The State party is called upon to ensure impartial and thorough investigations in cases of rights violations committed against children and the prompt prosecution of those responsible, and to provide just and adequate reparation to the victims. Clause 19 of the Protection of Human Rights Act should be repealed to allow inquiries into alleged abuses committed by members of the security forces to be conducted by the National Commission on Human Rights. In line with the recommendations of the Human Rights Committee (CCPR/C/79/Add.81), the requirement of governmental permission for criminal prosecutions or civil proceedings against members of the security forces should be abolished.

Paragraph 100

EFFECTIVE REMEDIES - GENERAL

The State party should ensure that laws provide criminal and civil remedies, especially in the light of decisions of the Supreme Court in relation to compensation funds for child labourers (*M.C. Mehta vs. The State of Tamil Nadu* and *M.C. Mehta vs. Union of India*). It is recommended that court procedures be simplified, so that responses are appropriate, timely and child-friendly. Enforcement of minimum-age standards should be vigorously pursued.

Paragraph 101

The State party should encourage states and districts to establish and oversee child labour vigilance committees, and ensure that a sufficient number of labour inspectors are adequately resourced to carry out their work effectively. A national mechanism to monitor the implementation of standards at state and local levels should be established and empowered to receive and address complaints of violations, and to file First Information Reports.

Paragraph 107

The sexual exploitation of children should be criminalized and all the offenders involved penalized, whether local or foreign, while ensuring that the child victims of this practice are not penalized. In order to combat trafficking in children, including for commercial sexual purposes, the Penal Code should contain provisions against kidnapping and abduction. The State party should ensure that laws concerning the sexual exploitation of children are gender neutral; provide civil remedies in the event of violations; ensure that procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; include provisions to protect from discrimination and reprisals those who expose violations; and vigorously pursue enforcement.

Paragraph 108

Rehabilitation programmes and shelters should be established for child victims of sexual abuse and exploitation.

See also:

- Armenia, CRC, CRC/C/94 (2000) 53 at para. 327.
- Tajikistan, CRC, CRC/C/100 (2000) 53 at para. 302.

- Sierra Leone, CRC, CRC/C/94 (2000) 24 at paras. 121, 122, 159, 160, 188, 189, 203 and 204.

Paragraph 121

Concern is expressed that the Convention is not applicable in the courts.

Paragraph 122

EFFECTIVE REMEDIES - GENERAL

The State party is urged to consider introducing legislation which would allow the Convention to be directly applicable in domestic courts.

Paragraph 159

Grave concern is expressed over the reported massive occurrence of torture and other cruel, inhuman or degrading treatment or punishment, including amputations and mutilations, committed against children.

Paragraph 160

Recognizing that the majority of these acts were committed in the context of the armed conflict, and with a view to achieving reconciliation and prevention, the State party is urged to use the truth and reconciliation commission process to raise discussion on such acts. The State party is urged to undertake measures which will ensure that such acts will, in the future, receive an appropriate response through the judicial process.

Paragraph 188

The State party is urged to take every feasible measure to have all child abductees and combatants released and demobilized and to rehabilitate and reintegrate them into society. The State party should establish and strictly enforce legislation prohibiting the future recruitment, by any armed force or group, of children under the age of 18, in accordance with the African Charter on the Rights and Welfare of the Child.

Paragraph 189

The State party is urged to take all necessary measures in cooperation with national and international NGOs and United Nations bodies, such as UNICEF, to address the physical needs of child victims of the armed conflict, in particular child amputees, and the psychological needs of all children affected directly or indirectly by the traumatic experiences of the war. The State party should develop as quickly as possible a long-term and comprehensive programme of assistance, rehabilitation and reintegration.

Paragraph 203

The State party is urged to include studies of incidents of sexual abuse in the context of the armed conflict among the issues to be discussed by the truth and reconciliation commission. The State party should initiate information campaigns alerting the public to the risks of sexual abuse within the family and within communities. In addition, the State party is urged to provide the necessary psychological and material assistance to the victims of such exploitation and abuse and assure their protection from any possible social stigmatization.

Paragraph 204

With regard to sexual abuse in the family and communities, it is recommended that the State party consider the establishment of mechanisms through which incidents can be identified,

EFFECTIVE REMEDIES - GENERAL

reported and addressed, *inter alia* through medical professionals, law enforcement and judicial officials.

- Costa Rica, CRC, CRC/C/94 (2000) 37 at paras. 215, 227 and 235.

Paragraph 215

The establishment of a Children and Adolescents section, under the Office of the Ombudsman (*Defensor del Pueblo*), is a positive measure. The fact that the Office of the Ombudsman has established a Permanent Forum for the Evaluation of the Implementation of the Children and Adolescent Code is welcomed.

Paragraph 227

While no cases of torture of children have been reported in the State party, concern is expressed at the lack of explicit legislation prohibiting the use of torture. No sanction is provided for those responsible for torture. In the light of article 37 (a), it is recommended that the State party include a provision in its domestic legislation prohibiting children from being subjected to torture and establishing appropriate sanctions against the perpetrators of torture.

Paragraph 235

Economic exploitation remains one of the major problems affecting children in the State party. Child labour laws should be fully enforced, labour inspectorates strengthened and penalties imposed in cases of violation.

See also:

- Peru, CRC, CRC/C/94 (2000) 64 at para. 379.

- The Former Yugoslav Republic of Macedonia, CRC, CRC/C/94 (2000) 45 at paras. 286 and 287.

Paragraph 286

The absence of measures to provide for the physical and psychological recovery and reintegration of children who have been the victims of crime, and of children who have participated in judicial proceedings or who have been confined in institutions is a concern.

Paragraph 287

In the light of article 39 of the Convention, the State party should urgently establish appropriate programmes to provide for the physical and psychological recovery and reintegration of such children and these mechanisms should be used in the administration of juvenile justice.

EFFECTIVE REMEDIES - GENERAL

- Armenia, CRC, CRC/C/94 (2000) 53 at paras. 309, 345 and 347.

Paragraph 309

The State party is encouraged to establish a statutory, independent national commission for children with the mandate of, *inter alia*, regularly monitoring and evaluating progress in the implementation of the Convention. Further, such a Commission should be adequately empowered, composed and resourced so as to effectively take the lead in the process of implementing the Convention.

Paragraph 345

The minimum age for admission to employment should be enforced. Employers should be required to have and produce on demand proof of age of all children working on their premises. A national mechanism to monitor the implementation of standards at State and local levels should be established and empowered to receive and address complaints of violations. It is recommended that the State party carry out campaigns to inform and sensitize the general public, especially parents and children, of work hazards; and to involve and train employers', workers' and civic organizations; government officials, such as labour inspectors and law-enforcement officials, and other relevant professionals. The State party should seek cooperation with relevant United Nations agencies, such as ILO and UNICEF, and NGOs in this regard.

Paragraph 347

A national drug control plan, or a Master Plan, should be developed with the guidance of United Nations Drug Control Programme (UNDCP). The State party is encouraged to continue its efforts to provide children with accurate and objective information about substance use, including tobacco use; and to protect children from harmful misinformation through comprehensive restrictions on tobacco advertising. The State party should develop rehabilitation services for children who are victims of substance abuse.

See also:

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at para. 323.
 - Egypt, CRC, CRC/C/103 (2001) 36 at para. 245.
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- Peru, CRC, CRC/C/94 (2000) 64 at paras. 359 and 371.

Paragraph 359

The State party's accession to the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women, the enactment of Law 26260 for protection against domestic violence, and of Law 27055 containing reforms criminalizing sexual violence issues are regarded as positive steps to combat violence against children and for the treatment of victims.

EFFECTIVE REMEDIES - GENERAL

Paragraph 371

Concern is expressed about the short- and long-term consequences of the decreasing but still prevailing climate of violence in several regions of the State party's territory (emergency zones), which threatens the development and right to life of children. The State party should continue taking effective measures to protect children against the negative impact of internal violence, including the establishment of rehabilitation measures for child victims of this violence.

- Grenada, CRC, CRC/C/94 (2000) 72 at paras. 392 and 401.

Paragraph 392

The State party should reinforce its efforts to establish an independent Ombudsperson, to deal with complaints of violations of the rights of children and to provide remedies for such violations. It is suggested that the State party introduce an awareness-raising campaign to facilitate the effective use by children of such a mechanism.

Paragraph 401

That the State party has not established and implemented a code of standards for alternative care institutions for children is a concern. Concern is also expressed regarding the absence of an independent complaint mechanism for children in alternative care institutions, the inadequate review of their placement in institutions, as well as the lack of available trained personnel in this field. A code of standards should be established to ensure adequate care and protection of children deprived of a family environment. The State party should provide additional training, including in children's rights, for social and welfare workers, ensure the periodic review of placements in institutions and establish an independent complaints mechanism for children in alternative care institutions.

See also:

- Suriname, CRC, CRC/C/97 (2000) 84 at para. 484.
- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), CRC, CRC/C/100 (2000) 40 at para. 240.

- South Africa, CRC, CRC/C/94 (2000) 81 at paras. 434 and 449.

Paragraph 434

While recognizing the efforts of the State party to train the police on the treatment of detainees and the non-use of unnecessary force, concern is expressed about the high incidence of police brutality and the inadequate enforcement of existing legislation to ensure that children are treated with respect for their physical and mental integrity and their inherent dignity. All appropriate measures should be taken to fully implement the provisions of articles 37 (a) and 39 of the

EFFECTIVE REMEDIES - GENERAL

Convention. Furthermore, greater efforts should be made to prevent police brutality and ensure that child victims are provided adequate treatment to facilitate their physical and psychological recovery and social reintegration and that perpetrators are sanctioned.

Paragraph 449

Insufficient efforts have been made to introduce adequate programmes to facilitate the rehabilitation of children affected by armed conflict during the *apartheid* era, whose situation is reflected in the current high levels of violence and crime within the State party. The State party should take all appropriate measures to introduce new and reinforce existing programmes to facilitate the rehabilitation and reintegration of children affected by armed conflict.

See also:

- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 481 and 482.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 38, 39, 48, 49 and 61.

Paragraph 38

Although the Convention is binding and has the force of law, according to article 9 of the Civil Code and article 77 of the Constitution, concern is expressed that it has not been invoked in the courts because of insufficient awareness of the Convention amongst the judiciary, lawyers and the general public, including children, despite efforts by the State party to inform children of their rights. The State party is not undertaking adequate dissemination and awareness-raising activities in a systematic and targeted manner.

Paragraph 39

An ongoing programme should be developed for the dissemination of information regarding the implementation of the Convention among children and parents, civil society and all sectors and levels of government. The State party is encouraged to pursue efforts to promote children's rights education in the country, including initiatives to reach the most vulnerable groups. Moreover, the State party should strengthen its efforts and develop systematic and ongoing training programmes on the provisions of the Convention for all professional groups working with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers).

Paragraph 48

That respect for the inherent right to life of a person under 18 is not guaranteed under the law is a serious concern, particularly in light of article 220 of the Penal Law which provides that a

EFFECTIVE REMEDIES - GENERAL

man who kills his own child or his son's child is subject only to discretionary punishment and the payment of blood money.

Paragraph 49

All necessary measures should be taken to ensure that there is no discriminatory treatment for such crimes, and prompt and thorough investigations and prosecutions should be ensured.

Paragraph 61

Legislative measures should be taken to prohibit all forms of physical and mental violence against children, including corporal punishment and sexual abuse, in the family and in the schools. Moreover, adequate procedures and mechanisms need to be established to receive complaints, monitor, investigate and prosecute instances of ill-treatment and ensure that the abused child is not victimized in legal proceedings. Attention should be given to addressing and overcoming socio-cultural barriers that inhibit victims from seeking assistance.

See also:

- Jordan, CRC, CRC/C/97 (2000) 31 at para. 188.
- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras.284 and 285.

- Georgia, CRC, CRC/C/97 (2000) 18 at paras. 111 and 117.

Paragraph 111

A code of standards should be established to ensure that children deprived of a family environment receive adequate care and protection. The State party should reinforce its efforts to provide additional training, including in children's rights, for the staff of institutions; ensure the periodic review of placements in institutions; and establish an independent complaint mechanism for children in alternative care institutions. The State party is encouraged to introduce measures to guarantee and protect the human dignity of children living in institutions and to make these institutions more child friendly. The State party is also encouraged to increase the level of resources allocated for the protection and care of children deprived of a family environment. Finally, it is recommended that the State party increase its efforts to prevent institutionalization and pay special attention in that regard to vulnerable families by, for example, providing them with adequate support services.

Paragraph 117

In light of article 19, the State party should undertake studies on domestic violence, ill-treatment and abuse (including sexual abuse within the family) with a view to adopting adequate policy measures and to changing traditional attitudes. All appropriate measures should be taken to introduce mandatory reporting of abuse, including sexual abuse of children. Cases of domestic

EFFECTIVE REMEDIES - GENERAL

violence, ill-treatment and abuse of children should be properly investigated within a child-friendly judicial procedure and sanctions applied to perpetrators, including treatment, with due regard given to protecting the right to privacy of the child. Additional measures should also be taken to ensure the physical and psychological recovery and social reintegration of child victims in accordance with article 39 of the Convention, and the prevention of criminalization and stigmatization of victims. The State party should take all appropriate measures to discourage the neglect and abandonment of children. The State party is encouraged to allocate funds to implement the State programme for the protection, development and social adaptation of minors.

See also:

- Suriname, CRC, CRC/C/97 (2000) 84 at para. 488.

- Jordan, CRC, CRC/C/97 (2000) 31 at paras. 160, 161, 181, 182 and 208.

Paragraph 160

Although the Convention is purported to have the force of law and takes precedence over all legislation except the Constitution, and courts are expected to accord precedence to it, it is observed that almost 10 years have passed since ratification and the Convention is not yet published in the Official Gazette.

Paragraph 161

The publication of the treaty in the Official Gazette should be expedited and the necessary action should be taken to make it enforceable in the courts, including courts of first instance.

Paragraph 181

Efforts to support amendments to penal law provisions which discriminate against women are noted. Nevertheless, serious concern is expressed that respect for the inherent right to life of a person under 18 is not guaranteed under the law, particularly in light of articles 340 and 98 of the Penal Code (No. 16/1960), which condone crimes perpetrated in the name of honour. That there is often reluctance on behalf of the police to arrest perpetrators, and that they receive lenient or token punishments are a concern.

Paragraph 182

In line with Commission on Human rights resolutions 2000/31 and 2000/45, the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2000/3) and those of CEDAW, all necessary measures should be taken to ensure that there is no discriminatory treatment for crimes of honour and that they are promptly and

EFFECTIVE REMEDIES - GENERAL

thoroughly investigated and prosecuted. In addition, awareness-raising activities to demonstrate that such practices are socially and morally unacceptable should be undertaken, and steps should be taken to ensure that protective custody is replaced by other types of protection for women.

Paragraph 208

A national study should be undertaken on the nature and extent of commercial sexual exploitation of children, and disaggregated data should be compiled and kept up to date to serve as a basis for designing measures and evaluating progress. The State party should review its legislation and ensure that it criminalizes the sexual abuse and exploitation of children and penalizes all offenders, whether Jordanian or foreign, while ensuring that the child victims are not penalized. It is recommended that the State party: ensure that laws concerning the sexual exploitation of children are gender neutral; simplify procedures so that responses are appropriate, timely, child friendly and sensitive to victims; and vigorously pursue enforcement. Rehabilitation programmes and shelters should be established for child victims of sexual abuse and exploitation. There is a need to train personnel working with child victims adequately. Awareness-raising campaigns should be carried out to sensitize and mobilize the general public on the child's right to physical and mental integrity and to be protected from sexual exploitation.

See also:

- Armenia, CRC, CRC/C/94 (2000) 53 at para. 349.
 - Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at para. 327.
 - Tajikistan, CRC, CRC/C/100 (2000) 53 at para. 318.
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- Norway, CRC, CRC/C/97 (2000) 43 at para. 265.

Efforts should be continued to prevent and address cases of sexual abuse by increasing the resources available, including for an appropriate review of the employment of adult staff working with children, by monitoring, through the legal processes of responding to accusations of child abuse, by training of legal and other relevant professionals, and by the timely provision of care to the victims of such acts.

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 300-303 and 307.

Paragraph 300

Concern is expressed about the numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment, torture and abduction. Concern is expressed that victims of such treatment are largely from vulnerable groups, such as refugees; that children are often detained for payment from their families; and that fear of reprisals and inadequate complaints procedures discourage children and their parents

EFFECTIVE REMEDIES - GENERAL

from filing complaints. Like the Committee against Torture (CAT/C/23/6), the Committee expresses concern at the absence of a definition of torture in the 1998 Criminal Code and appropriate penalties, and the apparent failure to provide prompt, impartial and full investigation into allegations of torture, as well as the failure to prosecute alleged perpetrators.

Paragraph 301

In light of article 37 of the Convention, and recalling 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 from occurring. The recommendations made by the Committee against Torture (CAT/C/23/6) should be implemented; the militia should be provided with training on how to deal with persons under 18; persons should be adequately informed of their rights when they are detained; complaints procedures should be simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; and rehabilitative support should be provided to victims.

Paragraph 302

The large number of children, especially children with disabilities, who are abandoned or who are otherwise deprived of a family environment is of concern. Further, concern is expressed that foster care or other forms of family-based alternative care are not sufficiently developed and available; that as a result children are placed in institutions which, owing to a lack of resources, provide children with very low-quality housing and care; and that the location and features of institutions do not facilitate family contact. The absence of effective mechanisms for children to communicate their concerns and complaints about their placement is a concern. In light of article 25 of the Convention, concern is expressed at the inadequate system to review placement, monitoring, or follow-up of the situation of children in institutions.

Paragraph 303

All effective measures should be taken, including the development of strategies and awareness-raising activities, to reduce and prevent the abandonment of children. In particular, the family should be promoted as the best environment for the child through counselling and community-based programmes to assist parents to keep children at home. Moreover, the State party should take all effective measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care, and place children in institutions only as a last resort. The State party should undertake a comprehensive review of conditions in institutions; take all necessary measures to improve infrastructure; and ensure that children living in institutions enjoy all the rights laid down in the Convention, in accordance with article 2. Existing policies and practices should be reviewed to ensure that children in institutions can maintain links with their families. The State party should provide support and training for personnel in institutions, including social workers. Effective mechanisms should be established to receive and address complaints from children in care, monitor standards of care, and establish regular periodic review of placement.

EFFECTIVE REMEDIES - GENERAL

Paragraph 307

In light of articles 19 and 39 of the Convention, it should be ensured that all forms of physical and mental violence, including corporal punishment and sexual abuse against children in the family, schools and care institutions, are prohibited. Adequate procedures and mechanisms need to be established to receive complaints; monitor, investigate and prosecute instances of ill-treatment; and ensure that the abused child is not victimized in legal proceedings. Attention should be given to addressing and overcoming socio-cultural barriers that inhibit victims from seeking assistance.

See also:

- Tajikistan, CRC, CRC/C/100 (2000) 53 at paras. 295, 296 and 298.
- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at para. 410.

- Cambodia, CRC, CRC/C/97 (2000) 64 at paras. 339, 392, 393 and 394.

Paragraph 339

While the Government's legislative framework covers several provisions of the Convention, and while efforts have been undertaken to draft new legislation, concerns remain that domestic legislation still needs to be reviewed and new laws enacted to fully respect the Convention. The lack of enforcement of the existing legislation is also a matter of concern.

Paragraph 355

The measures adopted to incorporate the general principles of the Convention in the State party's domestic legislation are insufficient.

Paragraph 356

The Convention (i.e. non-discrimination (art. 2), the best interests of the child (art. 3), the right to life, survival and development (art. 6) and respect for the views of the child (art. 12)) should be included in all relevant legislation affecting children and taken into account in all administrative and judicial decisions, as well as in all policies and programmes related to children. Awareness-raising among the public at large, including community and religious leaders, as well as educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions regarding children as objects and not as subjects of rights.

Paragraph 392

The provisions of the Labour Law regarding the minimum age for access to employment should be enforced; labour inspectors should be trained and provided with the means to monitor child labour; and appropriate sanctions should be applied to violators. The State party should enact legislation protecting children from hazardous forms of labour. The Committee acknowledges that the State party is considering ratification of the new ILO Convention No. 182 concerning

EFFECTIVE REMEDIES - GENERAL

the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999, and encourages it to do so.

Paragraph 393

The enactment of special legislation to combat sexual exploitation is welcomed as is the adoption of a five-year Plan of Action against Sexual Exploitation of Children (2000-2004). Concern is expressed at the widespread phenomena of child prostitution and the sale and trafficking of children; the inadequate enforcement of the new legislation on these issues; and the shortage of trained people and institutions to provide rehabilitation to the victims.

Paragraph 394

The State party should review its legislation to combat sexual exploitation with a view to reinforcing it, and in the meantime should enforce fully its current legislation against sexual exploitation; the Plan of Action should be fully implemented; sufficient resources, both human and financial, should be allocated for the implementation of the Plan; social services for the rehabilitation of child victims of sexual exploitation should be strengthened and expanded; violators should be prosecuted; and bilateral cooperation, especially with neighbouring countries, strengthened and border controls increased.

See also:

- Colombia, CRC, CRC/C/100 (2000) 64 at para. 386.

- Malta, CRC, CRC/C/97 (2000) 75 at paras. 427 and 431.

Paragraph 427

All effective measures should be taken, including legal ones, to include an explicit prohibition on the use of corporal punishment in the home; to ensure that this prohibition is adequately monitored and enforced, both at home and in the schools; and to promote positive, non-violent forms of discipline as an alternative to corporal punishment in the home.

Paragraph 431

In light of articles 19 and 39 of the Convention, effective measures should be taken, including the establishment of multidisciplinary programmes and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. It is suggested that: law enforcement should be strengthened with respect to such crimes; that adequate child-friendly procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and investigative procedures to avoid their double victimization; and that perpetrators of such crimes should be brought to justice. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue.

EFFECTIVE REMEDIES - GENERAL

- Djibouti, CRC, CRC/C/97 (2000) 96 at paras. 552 and 553.

Paragraph 552

The widespread practice of female genital mutilation is of concern. Efforts to complement legal reform with activities to raise awareness and sensitize health professionals are acknowledged, as are the efforts made to involve traditional leaders to change traditional attitudes.

Paragraph 553

The State party is urged to continue to take effective measures to eradicate this practice, and to benefit from the experience of other States that have addressed similar issues. The adoption of legal and judicial provisions in this area should be accompanied by further efforts to engage the community in the process of changing cultural attitudes, including by assisting traditional practitioners to seek alternative employment, and if necessary by ensuring the enforcement of the legal sanctions contemplated by article 333 of the new Penal Code in order to set an example.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 101, 102 and 134.

Paragraph 101

Concern is expressed that there is no mechanism to monitor the implementation of the Convention or to report complaints of violations of children's rights.

Paragraph 102

An independent mechanism should be established to monitor the implementation of the Convention and to record and report on violations of children's rights.

Paragraph 134

In light of article 19, it is recommended that the State party take steps to establish effective mechanisms for the timely reporting of and response to domestic violence and abuse against or affecting children, to prosecute individuals who violate criminal law and to protect children from cruelty and other harmful acts such as the seizure of property from orphans. Furthermore, it is recommended that the State party take measures to offer both physical and psychological care to those who have suffered, including assisting child victims through court and other proceedings and avoiding the risk of secondary victimization, and these recommendations should be implemented in accordance with article 39 of the Convention.

- United Kingdom of Great Britain and Northern Ireland (Isle of Man), CRC, CRC/C/100 (2000) 31 at paras. 178 and 179.

EFFECTIVE REMEDIES - GENERAL

Paragraph 178

While the Police Act provides for the creation of a police complaints commission to address human rights violations by the police, insufficient efforts have been made to establish a child rights focal point within the Commission to address complaints of violations of the rights of children by the police. It is noted with concern that children are not allowed to submit complaints to the Police Complaints Commission unless a relevant adult is present while the statement of complaint is being taken. Concern is also expressed at the insufficient efforts made to establish an independent, child-friendly, human rights monitoring mechanism to review administrative decisions affecting children and to address complaints from children concerning violations of their rights by government agents other than the police.

Paragraph 179

The establishment of a child rights focal point within the Police Complaints Commission is recommended. The Isle of Man should consider introducing measures to facilitate children who wish to make complaints to the Commission in the absence of an adult. It is recommended that the Isle of Man reconsider establishing an independent, child-friendly, accessible mechanism, separate from the Police Complaints Commission, to address complaints from children concerning violations of their rights and to provide remedies for such violations, in keeping with the Paris Principles (United Nations General Assembly resolution 48/134). In this context, the introduction of awareness-raising campaigns is encouraged in order to facilitate the effective use of these mechanisms by children.

- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), CRC, CRC/C/100 (2000) 40 at paras. 258, 263 and 264.

Paragraph 258

The State party is encouraged to introduce and/or strengthen, where appropriate, monitoring mechanisms to ensure the enforcement of labour laws and to protect children from economic exploitation, particularly within the informal sectors in these Territories.

Paragraph 263

Concern is expressed about:

- (a) The length of time before the hearing of juvenile cases; the lack of confidentiality accorded in cases involving juveniles; the holding of minors in adult detention facilities; the inadequacy of facilities for children in conflict with the law, including girls; the insufficient numbers of trained personnel to work with children in this regard; and the lack of legal aid programmes;

EFFECTIVE REMEDIES - GENERAL

(b) The inadequate access to education, health, counselling and other rehabilitative services; and the lack of a complaints mechanism for children whose rights have been violated.

Paragraph 264

The State party should:

(a) Take additional steps to reform the juvenile justice system in the spirit of the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;

b) Consider deprivation of liberty only as a measure of last resort, for the shortest possible time and only for serious offences; protect the rights of children deprived of their liberty, including the right to privacy; ensure that children remain in contact with their families while in the juvenile justice system; ensure that children are provided adequate access to education, health, counselling and other rehabilitative services; and introduce complaints mechanisms for children whose rights have been violated;

(c) Introduce training programmes on relevant international standards for all those professionals involved with the juvenile justice system.

See also:

- Georgia, CRC, CRC/C/97 (2000) 18 at para. 144.
- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 507 and 508.
- United Kingdom of Great Britain and Northern Ireland (Isle of Man), CRC, CRC/C/100 (2000) 31 at para. 204.
- Latvia, CRC, CRC/C/103 (2001) 9 at para. 73.

- Tajikistan, CRC, CRC/C/100 (2000) 53 at paras. 283, 284, 299, 300 and 316.

Paragraph 283

The Committee emphasizes the importance of setting up an independent mechanism with the mandate of regularly monitoring and evaluating progress in the implementation of the Convention at the national and local levels.

Paragraph 284

The State party is encouraged to continue its discussions relating to the establishment, in accordance with the Paris Principles relating to the status of national institutions (General

EFFECTIVE REMEDIES - GENERAL

Assembly resolution 48/134), of a national human rights institution to monitor and evaluate progress in the implementation of the Convention. The State party is encouraged to seek technical assistance from, *inter alia*, the Office of the High Commissioner for Human Rights and UNICEF.

Paragraph 299

The absence of national adoption standards, particularly in relation to foster and adoptive family screening is of concern. Concern is also expressed about the absence of mechanisms to review, monitor and follow up adoptions, and of statistics on foster care and adoption.

Paragraph 300

It is recommended that the State party establish a comprehensive national policy and guidelines governing adoption and screening capacity, and establish a central monitoring mechanism in this regard. The State party should consider acceding to the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.

Paragraph 316

The State party should ensure that the minimum age for admission to employment is enforced. Employers should be required to have and produce on demand proof of age of all children working on their premises. An effective labour inspectorate to monitor the implementation of standards at State and local levels should be established and empowered to receive and address complaints of violations.

- Colombia, CRC, CRC/C/100 (2000) 64 at paras. 360, 361 and 364.

Paragraph 360

In the light of its previous recommendation concerning the need to conduct special investigations in cases of gross violations of human rights involving children, the Committee regrets the lack of follow-up information on this issue and reiterates its concern about alleged cases of street children tortured and ill-treated by members of the police and/or paramilitary groups.

Paragraph 361

The State party is urged to undertake effective measures to ensure that such acts receive an appropriate response through the judicial process, in order to avoid impunity for the perpetrators. Care and rehabilitation programmes should be established for child victims of torture and ill-treatment.

Paragraph 364

EFFECTIVE REMEDIES - GENERAL

The State party should develop additional programmes to facilitate alternative care, provide additional training for social and welfare workers and establish independent complaint and monitoring mechanisms for alternative care institutions. The State party is urged to make every effort to strengthen family tracing programmes and to increase its efforts in providing support, including training for parents, to discourage the abandonment of children. Adequate periodic review of the placement of children living in institutions should be ensured.

- Central African Republic, CRC, CRC/C/100 (2000) 77 at paras. 409, 410 and 450.

Paragraph 409

Concern is expressed about the lack of an appropriate legal framework, as the judicial system is still reliant upon colonial-era legislation which is not always appropriate to the current situation. Customary practices are sometimes applied instead of domestic law. Some of these practices violate children's rights.

Paragraph 410

Every effort should be made to review domestic legislation and ensure its conformity with the provisions of the Convention on the Rights of the Child. The State party is urged to strengthen implementation of legislation and, in particular, to end those customary practices which violate children's rights.

Paragraph 450

The State party should implement measures to address the abuse and neglect of children including through improved monitoring, reporting and responses to such practices. The State party should sensitize parents and the population in general on this issue.

- Marshall Islands, CRC, CRC/C/100 (2000) 89 at paras. 492, 495, 496, 499 and 500.

Paragraph 492

All necessary steps should be taken to incorporate the Convention into domestic law. The State party should undertake a review of all aspects of its domestic legislation relating to children with a view to ensuring full conformity with the principles and provisions of the Convention. Enactment of a comprehensive children's code should be considered.

Paragraph 495

EFFECTIVE REMEDIES - GENERAL

Concern is expressed about the absence of a focal point for children within the Government and at the lack of mechanisms at the national and local levels for coordinating policies relating to children and for monitoring the implementation of the Convention.

Paragraph 496

The State party should consider establishing a focal point within the Government and coordination mechanisms between the various ministries, as well as between central and local authorities, with a view to developing a comprehensive national strategy or plan of action for children and ensuring the implementation of the Convention in the country and its regular evaluation.

Paragraph 499

It is noted with concern that there is no independent body to monitor observance of the implementation of children's rights with a view to promoting and protecting them and to deal with individual complaints concerning all children's rights, not only violations of law.

Paragraph 500

The State party is encouraged to consider creating an independent child-friendly body easily accessible to children such as an ombudsperson or a national commission for children's rights, the establishment of which must be in keeping with the Paris principles (General Assembly resolution 48/134, annex), to monitor the implementation of the Convention and to deal in an expeditious way with individual complaints concerning children's rights.

See also:

- Georgia, CRC, CRC/C/97 (2000) 18 at para. 87.
- Latvia, CRC, CRC/C/103 (2001) 9 at para. 41.
- Liechtenstein, CRC, CRC/C/103 (2001) 19 at para. 95.

- Slovakia, CRC, CRC/C/100 (2000) 100 at paras. 555, 564, 565, 569, 574, 575, 594 and 595.

Paragraph 555

The State party is encouraged to establish a statutory, independent institution, adequately resourced and with a mandate to regularly monitor and evaluate progress in the implementation of the Convention and empowered to receive and address complaints of violations of children's rights.

Paragraph 564

EFFECTIVE REMEDIES - GENERAL

That the right of the child to be protected from discrimination by all appropriate measures is not implemented in conformity with article 2 of the Convention as the State party has not taken affirmative actions for the benefit of certain vulnerable groups of children, especially Roma. Roma children need more help and support in order to enjoy the right to development on an equitable basis with other children.

Paragraph 565

The implementation of article 2 of the Convention should be reviewed in this respect. The State party should monitor and react to cases of discrimination against children in all sectors of society in a more effective manner.

Paragraph 569

The State party should continue carrying out timely and thorough investigations and effective prosecutions against racist organizations. The State party is encouraged to continue to expand throughout the State preventive programmes to curb racially motivated violence directed towards Roma and their children and other ethnic minorities. Clear guidelines and instructions for police and prosecuting authorities should be developed to assist them in identifying such crimes, and ensure timely and effective investigation, and prosecution of racially motivated attacks, including cases of police misconduct.

Paragraph 574

The establishment of special units in the Police Corps to deal with cases of neglect of children and domestic violence is welcomed. The introduction in January 1999 of a special children's hotline to receive and address complaints in this area is a welcome development. It is of concern that violence against women is a problem in Slovakia, and that this has harmful consequences on children.

Paragraph 575

In light of articles 19 and 39 of the Convention, the State party should ensure that all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools and care institutions, are prohibited. Attention should be given to ensuring that the abused child is not victimized in legal proceedings; strengthening programmes for the rehabilitation and reintegration of abused children; and addressing sociocultural barriers that inhibit victims from seeking assistance. The State party should continue to promote the use of the hotline and other mechanisms to receive complaints throughout the country.

Paragraph 594

Amendments to the Penal Code and the Penal Rules in the area of juvenile justice are noted. However, concern is expressed at the insufficient information available on prevailing conditions in detention facilities for juveniles and with respect to independent complaints mechanisms.

EFFECTIVE REMEDIES - GENERAL

Paragraph 595

In light of article 37 of the Convention, conditions of detention should conform to international standards. The State party should consider the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment concerning the detention of juveniles. Moreover, there should be effective independent mechanisms available to receive and address concerns raised by detainees.

- Comoros, CRC, CRC/C/100 (2000) 110 at para. 610.

The establishment of an independent body to monitor the implementation of the Convention should be considered. Such a body should be invested with the authority to receive and investigate individual or collective complaints regarding lack of compliance with the Convention and to make recommendations in that regard.

- Latvia, CRC, CRC/C/103 (2001) 9 at paras. 40 and 49.

Paragraph 40

The importance of setting up an independent mechanism with a mandate to monitor and evaluate progress in the implementation of the Convention, at both the national and local levels, is emphasized.

Paragraph 49

The general principles of the Convention, in particular the provisions of its articles 2, 3 and 12, should be appropriately integrated in all relevant legislation concerning children and applied in all political, judicial and administrative decisions and in projects, programmes and services which have an impact on all children, including non-citizen children. These should guide the determination of policy-making at every level and actions taken by social and health welfare institutions, courts of law and administrative authorities.

- Liechtenstein, CRC, CRC/C/103 (2001) 19 at paras. 106 and 107.

Paragraph 106

The possible under-reporting of abuse of children and the fact that medical doctors are exempted from the obligation to report cases of child abuse are matters of concern.

Paragraph 107

EFFECTIVE REMEDIES - GENERAL

In light of articles 19 and 39 of the Convention, the State party should take effective measures, including reinforcing current multidisciplinary programmes and rehabilitative measures, to prevent and combat abuse and ill-treatment of children within the family and at school. The State party should reconsider the rule concerning the reporting of cases of child abuse by medical doctors in order to make the reporting system more effective and take other measures to reduce under-reporting of child abuse. Adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders.

- Ethiopia, CRC, CRC/C/103 (2001) 24 at para. 136, 137, 155 and 189.

Paragraph 136

While noting that the State party has the position of independent human rights commissioner, with a deputy commissioner for children and women's rights, and an office of ombudsperson for human rights, concerns remain that these mechanisms are not yet operational.

Paragraph 137

The State party should proceed with the establishment of independent monitoring mechanisms and give them competence and sufficient resources to address children's rights concerns. In particular, efforts should be made to ensure the appointment of an independent human rights commissioner, with a deputy commissioner for children's and women's rights, and the establishment of an office of ombudsperson for human rights, including a focus on children's rights.

Paragraph 155

In the light of article 28.2 of the Convention, the State party should permanently prohibit all forms of corporal punishment, including in the context of school and the family, *inter alia*, through the enforcement of appropriate legislation, through awareness raising activities for parents, teachers and other relevant groups and through the training of teachers in alternative disciplinary sanctions which are not harmful to children. For this purpose, the State party should consider taking advantage of the current drafting of a new penal code. Children should be provided with mechanisms through which they can report and complain of corporal punishment practices.

Paragraph 189

The State party is urged to address practices of sexual exploitation, rape and other sexual abuse of children through, *inter alia*, the provision of care to and the rehabilitation and social reintegration of victims, the enforcement of criminal law, the prosecution of perpetrators of these acts and increased monitoring and reporting of such incidents. Grassroots awareness campaigns on sexual exploitation and other sexual abuse of children should be undertaken, including the translation of relevant terms into local languages.

EFFECTIVE REMEDIES - GENERAL

- Egypt, CRC, CRC/C/103 (2001) 36 at paras. 233, 248 and 249.

Paragraph 233

Legislative measures should be taken to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in the family, the schools, and in care institutions. Programmes for the rehabilitation and reintegration of abused children need to be strengthened. Moreover, adequate procedures and State mechanisms need to be established to: receive complaints in a child-friendly manner; monitor, investigate and prosecute instances of ill-treatment; and ensure that the abused child is not victimized in legal proceedings. The training of teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment is recommended. Attention should be given to addressing and overcoming socio-cultural barriers that inhibit victims from seeking assistance. In concurrence with the Committee on Economic, Social and Cultural Rights, the Committee recommends that the State party take effective measures to combat domestic violence and criminalize marital rape.

Paragraph 247

A national study should be undertaken on the nature and extent of commercial sexual exploitation of children, and disaggregated data should be compiled and kept up to date to serve as a basis for designing measures, and evaluating progress. The State party should review its legislation and ensure that it criminalizes the sexual exploitation of children and penalizes all offenders involved, whether local or foreign, while ensuring that the child victims are not penalized. The State party should: ensure that domestic laws concerning the sexual exploitation of children are gender neutral; provide civil remedies in the event of violations; ensure that procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; include provisions to protect from discrimination and reprisals those who expose violations; and vigorously pursue enforcement. Rehabilitation programmes and shelters should be established for child victims of sexual abuse and exploitation. There is a need to adequately train personnel working with child victims. The State party should carry out awareness-raising campaigns to sensitize and mobilize the general public on the child's right to physical and mental integrity and safety from sexual exploitation.

Paragraph 249

The administration of juvenile justice should be periodically reviewed and assessed, particularly the conformity of legislation and practice with articles 37, 39 and 40 of the Convention as well as with other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System. The State party should repeal status offences such as begging and truancy; ensure separation of children from adults in pre-trial detention; establish effective independent complaints mechanisms; and develop facilities and programmes for the physical and psychological recovery and social

EFFECTIVE REMEDIES - GENERAL

reintegration of juveniles. Assistance should be sought from, among others, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Lithuania, CRC, CRC/C/103 (2001) 47 at para. 308.

Juvenile offenders should be dealt with without delay and pre-trial detention should not be longer than the period prescribed by law and should be used only as a measure of last resort. Alternative measures to prevent pre-trial detention should be used whenever possible. The State party should incorporate into its legislation and practice the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, in particular with a view to guaranteeing them access to effective complaints procedures covering all aspects of their treatment, and take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system.

- Lesotho, CRC, CRC/C/103 (2001) 57 at paras. 323, 324, 343, 344 and 348.

Paragraph 323

The absence of mechanisms through which children, as well as adults, can make complaints of human rights violations or other abuses is a matter of concern.

Paragraph 324

The State party should establish an independent monitoring body with responsibility for monitoring the implementation of the Convention. Consideration should also be given to providing a mechanism through which children can make complaints of abuses of their rights.

Paragraph 343

Extreme concern is expressed about incidents of violence, including beatings, committed against children by law enforcement officials and about the lack of investigation or criminal justice response to such incidents.

Paragraph 344

The State party should establish an effective child-friendly complaint and investigation system to address acts of violence committed by law enforcement or other officials against children and to ensure that the perpetrators of such acts do not enjoy impunity. Awareness of children's rights issues within the criminal justice system should be strengthened.

Paragraph 348

EFFECTIVE REMEDIES - GENERAL

Additional programmes should be developed to strengthen alternative care facilities, in particular an adequate and well-supported (e.g. via special grants for foster parents) foster care system. The practice of using the Juvenile Training Centres to detain children as a form of alternative care should end. The State party should develop other alternative care systems, including foster care, and it should provide additional training for social and welfare workers. Independent complaint and monitoring mechanisms should be established for alternative care institutions.

- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 391, 392, 415 and 416.

Paragraph 391

The importance of setting up an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention is emphasized. The guarantees of non-discrimination, religious freedom and due process laid down in domestic law without independent and effective mechanisms to monitor their application do not on their own ensure the enjoyment of these and other fundamental rights.

Paragraph 392

The State party is encouraged to consider the establishment of an independent national human rights institution in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134) to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local levels. This institution should be empowered to receive and investigate complaints of violations of child rights in a child-friendly manner, and address them effectively.

Paragraph 415

It is of concern that the age of majority is not defined, and in the absence of a published criminal code and code of criminal procedure, persons under 18 may be prosecuted for crimes in the same manner as adults (i.e. without special procedures) and be subject to the same penalties as adults. Concern is also expressed about the lack of an independent and effective child-friendly monitoring and complaints mechanism. The lack of adequate access to legal counsel may put a child at risk of arbitrary arrest and detention under the 1977 Detention and Imprisonment Regulations and the 1983 Principles of Arrest, Temporary Confinement and Preventative Detention Regulations. It is also noted with concern that females under 18 are detained with adult females under the 1975 Statutes of the Welfare Institutions for Young Women.

Paragraph 416

The State party should establish a system of juvenile justice, fully integrating into its legislation and practice the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System. The State

EFFECTIVE REMEDIES - GENERAL

party should expedite the promulgation of a criminal code and a code of criminal procedure. Particular attention should be paid to ensure that: deprivation of liberty is only used as a measure of last resort; children have access to legal aid and independent and effective complaints mechanisms; and persons under 18 are not detained with adults.

- Palau, CRC, CRC/C/103 (2001) 79 at paras. 428, 429, 440 and 441.

Paragraph 428

It is noted that the Convention may not be invoked before the courts unless the relevant articles have been enacted into the Palau Code. Concern is expressed that insufficient efforts have been made to facilitate this process.

Paragraph 429

All appropriate measures should be taken to enact domestic legislation to give direct effect to the Convention.

Paragraph 440

It is noted that the State party intends to establish an ombudsperson for children within the proposed Office for Child and Family Support. This office will also be responsible for coordinating the implementation of the Convention. Concern is expressed about the potential conflict of interest that may arise as a result of having the same office responsible for both coordination and monitoring.

Paragraph 441

The State party is encouraged to reinforce its efforts to establish an independent monitoring mechanism, such as an ombudsperson for children, to deal with complaints of violations of the rights of children and to provide remedies for such violations. All appropriate measures should be taken to ensure that the office of the ombudsperson is allocated adequate resources and is child-friendly and accessible to children. An awareness raising campaign should be introduced to facilitate the effective use by children of the monitoring mechanism. The proposal to incorporate the ombudsperson for children within the Office for Child and Family Support should be reconsidered so as to ensure that the agency with responsibility for coordinating implementation of the Convention is not also responsible for monitoring implementation.

- Dominican Republic, CRC, CRC/C/103 (2001) 91 at paras. 511, 512 and 525.

Paragraph 511

Deep concern remains about the weakness of family links, about the large numbers of children who have been deprived of a family environment and, in particular about reports regarding: difficulties and slow progress in tracing separated families and children; the lack of adequate

EFFECTIVE REMEDIES - GENERAL

mechanisms of protection for children living in institutions; the placement of children in institutions for long periods; and the predominant use of placement in institutions in preference to the development of alternative care measures (e.g., adoption and foster care).

Paragraph 512

The State party should strengthen and increase its programmes, in collaboration with relevant NGOs, to support families in need, in particular single parent families and those in socio-economic or other difficult circumstances, such as very young couples with children. Programmes should be developed to facilitate alternative care, in particular foster care, additional training should be provided for social and welfare workers, and independent complaint and monitoring mechanisms should be established for alternative care institutions.

Paragraph 525

In the light of articles 3, 6 and 32 of the Convention, the State party should continue working in cooperation with ILO/IPEC for the establishment and implementation of a national plan for the elimination of child labour and undertake all the actions envisaged in the Memorandum of Understanding with ILO/IPEC (1996). The situation of children involved in hazardous labour, especially in the informal sector where the majority of working children are found, requires special attention. Child labour laws should be enforced and labour inspectorates should be strengthened. Penalties should be imposed in cases of violation.

- Denmark, CRC, CRC/C/108 (2001) 10 at paras. 46, 47, 54 and 55.

Paragraph 46

The Minister of Justice has set up a committee of human rights experts to examine the advantages and disadvantages involved in incorporating the core international human rights treaties into Danish law, including the Convention on the Rights of the Child. While it is noted that the recommendations of the expert committee have not yet been finalized, concern remains about the legal status of the Convention on the Rights of the Child in domestic law.

Paragraph 47

The State party should consider the incorporation of core international human rights instruments, including the Convention on the Rights of the Child, into domestic law. In this regard, the State party is urged to give equal weight to all international human rights instruments.

Paragraph 54

The establishment of initiatives to facilitate the lodging of complaints by children of violations of their rights are noted, including through the Office of the Ombudsman and a telephone hotline. However, concern remains about the accessibility and availability of these complaint mechanisms to all children within the State party.

EFFECTIVE REMEDIES - GENERAL

Paragraph 55

All effective measures should be taken to ensure that domestic independent complaint mechanisms are easily accessible to and user friendly for all children, to deal with complaints of violations of their rights and to provide remedies for such violations. In this regard, the State party is encouraged to reinforce its awareness raising efforts to facilitate the effective use by children of the complaint mechanisms. The State party is encouraged to consider strengthening the mandate of the National Council for Children to include individual cases and complaints from children, or to establish a child rights focal point within the Office of the Ombudsman.

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 99, 100, 125, 126, 128 and 146.

Paragraph 99

There is a concern about the absence of an independent mechanism, such as an Ombudsman or a commission for children, to monitor children's rights and to register and address individual complaints from children concerning violation of their rights.

Paragraph 100

The State party develop and establish an independent and effective mechanism, easily accessible for children and in accordance with the Paris Principles, to monitor the implementation of the Convention, to deal with complaints from children in a child-sensitive and expeditious manner and to provide remedies for violations of their rights under the Convention. Technical assistance should be considered from, UNICEF and the Office of the High Commissioner for Human Rights.

Paragraph 125

Concern is expressed about the lack of data, appropriate measures, mechanisms and resources to prevent and combat domestic violence, ill-treatment and abuse, including sexual abuse and related virginity tests. It is noted that societal attitudes towards women and children often mean that these cases are not reported, and when they are reported the police do not systematically intervene. The limited number of services for abused children is also a cause of concern.

Paragraph 126

It is recommended that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy, and the elimination of virginity tests. Measures should also be taken to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence.

Paragraph 128

EFFECTIVE REMEDIES - GENERAL

In the light of articles 3, 19 and 28(2) of the Convention, the State party is encouraged to develop measures to raise awareness of the harmful effects of corporal punishment and to promote alternative forms of discipline in families that are administered in a manner consistent with the child's dignity and in conformity with the Convention. The ban on corporal punishments in schools and other institutions should be enforced effectively.

Paragraph 146

It is recommended that the State party continue to review the law and practices regarding the juvenile justice system in order to bring it into full compliance with the Convention, as well as with other relevant international standards in this area, with a view to raising the minimum legal age for criminal responsibility, extending the protection guaranteed by the Juvenile Law Court to all children up to the age of 18 and enforcing this law effectively by establishing juvenile courts in every province. In particular, the State party is reminded that juvenile offenders should be dealt with without delay, in order to avoid periods of *incommunicado* detention, and that pre-trial detention should be used only as a measure of last resort, should be as short as possible and should be no longer than the period prescribed by law. Alternative measures to pre-trial detention should be used whenever possible.

See also:

- Oman, CRC, CRC/C/111 (2001) 36 at paras. 166 and 167.
- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 160, 196, 211 and 212.

Paragraph 160

An independent monitoring mechanism should be introduced for the implementation of the Convention, and it should be accessible to children. It is also recommended that the State party seek technical assistance from UNICEF, WHO, ILO and other intergovernmental and non-governmental organizations.

Paragraph 196

In light of article 19 of the Convention, the State party is urged to end practices of sexual abuse through monitoring, reporting, use of the criminal justice process to prosecute adults guilty of such abuse, and through information campaigns targeting parents, communities and children. Instances of abuse and neglect of children should be properly investigated within a child-sensitive inquiry and judicial procedure in order to ensure better protection of child victims, including the protection of their right to privacy. Measures should also be taken to provide support services to children in legal proceedings, and for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention.

EFFECTIVE REMEDIES - GENERAL

Paragraph 211

Deep concern is expressed over the grave violations of the rights of refugee children and their families and, in particular, at allegations of widespread massacres of tens of thousands of refugees and the State party's lack of cooperation with, and obstruction of, efforts by the United Nations investigative mission mandated to clarify such allegations. Also of concern is the fact that the situation of refugee children and their families is poor. In addition, the very high number of children and their families internally displaced within the State party as a result of the armed conflict is a matter deep concern. Concern is also expressed at the separation of children from their families and the very limited access of displaced children to adequate food and to health and education services.

Paragraph 212

The State party should strengthen its efforts to provide adequate assistance to refugees and every effort should be made to prevent all forms of violence against refugee and internally displaced children and investigate and seek justice with regard to allegations of massacres of refugee children and their families. Urgent measures should be implemented to protect civilian populations from further internal displacement, to ensure that those children and their families who have already been displaced have access to food, education and health assistance, and to support the return home of internally displaced populations and their reintegration into their communities. Noting the ongoing efforts, the State party is further urged to continue to give particular attention to strengthening family reunification efforts. It is recommended that the State party work closely with UNHCR and UNICEF in this regard.

- Guatemala, CRC, CRC/C/108 (2001) 47 at paras. 247, 248, 257, 258, 275, 276 and 285.

Paragraph 247

Cooperation with non-governmental organizations should be further promoted and reinforced. It is of concern that some non-governmental organizations working with children have been subjected to threats and assaults.

Paragraph 248

The State party should encourage the promotion of closer cooperation with non-governmental organizations for the coordination and implementation of the Convention at the national and local levels and in urban and rural areas. It is strongly recommended that cases of threats and assaults against non-governmental organizations working with and for children be effectively investigated and prosecuted and that all the necessary measures be taken to prevent further such actions.

Paragraph 257

It is deeply disturbing that violence against children is increasing. In particular, it is noted with great concern that many children fear for their lives because they are continually threatened and

EFFECTIVE REMEDIES - GENERAL

are victims of violence, not only when they are living and/or working in the street but also when they are at home. Of particular concern is the alleged involvement of the State Civil Police in some of the alleged cases of violence and the lack of proper investigation of these cases by Guatemalan authorities.

Paragraph 258

It is recommended that the State party take, as a matter of the highest priority, all the necessary steps to prevent these serious violations of children's rights and to ensure that they are properly investigated and that those responsible are brought to justice. In light of article 39, the State party is also invited to take all appropriate measures to ensure the physical and psychological recovery and social reintegration of child victims of torture and/or ill-treatment and to provide adequate compensation. International cooperation could also be sought in this regard.

Paragraph 275

It is noted that the State party has launched an action plan for the psychological rehabilitation of children affected by the armed conflict based on a preventive programme with community participation. However, concern is expressed at the lack of professional staff prepared to work in these communities and at the insufficient number of services to meet demand. It is also noted with concern that a large number of children were internally displaced or forcibly disappeared during the armed conflict and that the State party did not investigate these disappearances effectively.

Paragraph 276

In light of article 39 of the Convention, the State party should consider complying with the recommendations of the Truth Commission regarding a national reparation programme that would also include children affected by the internal armed conflict, and it should effectively investigate all cases of children who were forcibly disappeared by allocating human and financial resources to and cooperating with the National Commission for Searching for Disappeared Children. Further, it is recommended efforts be strengthened to implement the Programme to Support Resettlement of Displaced Groups and to ensure adequate protection to internally displaced children, paying special attention to the problem of lack of identification papers. The State party is encouraged to continue its international cooperation programmes with, among others, UNDP, UNHCR and UNCHS (Habitat).

Paragraph 285

With reference to children deprived of their liberty, the State party should incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment, and take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system. It is recommended that the State party seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF,

EFFECTIVE REMEDIES - GENERAL

through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

See also:

- Turkey, CRC, CRC/C/108 (2001) 18 at para. 147.
- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at paras. 290, 299 and 300.

Paragraph 290

The enactment of the new Constitution of 1 August 2000 is welcomed, which contains provisions on human rights for the protection of children and abolishes the death penalty (which used to be applicable to children from 16 years of age).

Paragraph 299

Note is taken of decree No. 2000-830 of 22 November 2000 establishing a National Human Rights Commission, and the project to establish a national monitoring body. While welcoming the fact that human rights associations have the right to submit cases to the Constitutional Council, the Committee emphasizes the importance of setting up an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention at the local and national levels.

Paragraph 300

The State party should consider establishing an independent national human rights institution, in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local level. In addition, the institution should be empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and effectively address them. Technical assistance could be sought from, among others, OHCHR and UNICEF.

- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 368, 369, 388, 389, 392, 393 and 397.

Paragraph 368

EFFECTIVE REMEDIES - GENERAL

While the Commission for Human Rights and Good Governance Act 2001 is welcomed, there is concern about the accessibility and availability of this new mechanism to all children in all regions of the State party.

Paragraph 369

All effective measures should be taken to ensure that the Commission for Human Rights and Good Governance is easily accessible and child-sensitive and that it can deal effectively with complaints of violations of the rights of children and provide remedies for such violations, in all regions of the country. An awareness-raising campaign should be conducted about the Commission to facilitate its effective use by children. The establishment of a focal point on children within the Commission for Human Rights and Good Governance is encouraged in order to monitor children's rights.

Paragraph 388

There is concern about the incidence of police brutality, particularly against children living and/or working on the streets, refugee children and those in conflict with the law. Concern is also expressed about 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.

Paragraph 389

It is strongly recommended that all appropriate measures be taken to fully implement the provisions of articles 37 (a) and 39 of the Convention. In this regard, greater efforts should be made to prevent police brutality and to facilitate the recovery of child victims through rehabilitation and compensation. Additionally, effective measures should be taken to ensure that the perpetrators of brutality against children are brought to justice.

Paragraph 392

It is of concern that there is an increasing number of children deprived of a family environment, including AIDS orphans. Concern is also expressed about the inadequate facilities and services for children deprived of a family environment, the absence of an independent complaint mechanism for children in alternative care institutions, the inadequate review of their placement in institutions and the lack of available trained personnel in this field. The absence of a code of standards for alternative care institutions for children is noted with concern. There are also insufficient financial and human resources allocated for alternative care.

Paragraph 393

Effective measures should be taken to improve alternative care, including through the allocation of adequate financial and human resources. The State party should provide additional training, including in children's rights, for social and welfare workers, ensure the periodic review of placements in institutions and establish an independent complaints mechanism for children in alternative care institutions. Additionally, a code of standards should be established and

EFFECTIVE REMEDIES - GENERAL

implemented to ensure adequate care and the protection of children deprived of a family environment.

Paragraph 397

Studies should be undertaken on domestic violence, ill-treatment and abuse (including sexual abuse within the family) in order to adopt adequate policies and contribute to changing traditional attitudes. The State party should consider introducing mandatory reporting of abuse, including sexual abuse of children. Cases of domestic violence, ill-treatment and abuse of children should be properly investigated within a child-sensitive judicial procedure and sanctions applied to the perpetrators, with due regard given to protecting the right to privacy of the child. In accordance with article 39 of the Convention, measures should be taken to ensure the rehabilitation of victims as well as the perpetrators. Efforts should also be made to prevent the criminalization and stigmatization of child victims of abuse. The State party is encouraged to continue its regional cooperation in combating all forms of violence against women and children. Technical assistance should be sought from, among others, UNICEF and UNDP.

See also:

- Kenya, CRC, CRC/C/111 (2001) 21 at paras. 122 and 123.

- Bhutan, CRC, CRC/C/108 (2001) 85 at paras. 442, 443, 453, 463, 481 and 483.

Paragraph 442

Concern is expressed about the lack of an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention and empowered to receive and address complaints.

Paragraph 443

The State party should consider establishing an independent national human rights institution, in accordance with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention at the national and at the local levels. This institution should be accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively. Technical assistance should be sought from, among others, OHCHR, UNICEF and the European Network of Ombudspersons for Children.

Paragraph 453

Effective measures, including enacting or rescinding legislation where necessary, should be taken to prevent and eliminate discrimination, in accordance with article 2 of the Convention, in all fields of civil, economic, political, social and cultural life. Accessible, prompt and effective

EFFECTIVE REMEDIES - GENERAL

mechanisms should be established to monitor, receive and address complaints of discrimination (e.g. prompt appeal in circumstances of denial of school enrolment). The State party should also take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes towards different ethnic groups.

Paragraph 463

The State party should conduct a study to assess the nature and extent of ill-treatment of children, and design policies and programmes to address it. Legislative measures should be taken to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools, and in institutions. Public education campaigns should be carried out about the negative consequences of ill-treatment of children and should promote positive, non-violent forms of discipline as an alternative to corporal punishment. The State party should also establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervention where necessary; prosecute instances of ill-treatment, ensuring that the abused child is not victimized in legal proceedings; and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases. The State party should seek assistance from, among others, UNICEF and WHO.

Paragraph 481

A national survey should be conducted on the causes and extent of child labour. The State party should establish a minimum age for admission to employment in accordance with the principles and provisions of the Convention, that is in conformity with the age of completion of education, and ensure that it is enforced; employers should be required to have, and to produce on demand, proof of age of all children working on their premises. A mechanism should be established to monitor the implementation of standards, which is empowered to receive and address complaints of violations. The State party should also carry out campaigns to inform and sensitize the general public, especially parents and children, of work hazards.

Paragraph 483

It should be ensured that the sexual exploitation of children is criminalized, is gender neutral and penalizes all offenders involved, whether local or foreign, while ensuring that the child victims are not penalized. The State party should also ensure that legal procedures are simplified so that responses are appropriate, timely, and sensitive to victims. Rehabilitation and social reintegration programmes should be established for child victims and personnel working with child victims should be trained. Finally, the State party should carry out awareness-raising campaigns to sensitize and mobilize the general public on the child's right to physical and mental integrity and safety from sexual exploitation.

See also:

- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 42 and 43.
- Oman, CRC, CRC/C/111 (2001) 36 at paras. 183 and 184.

EFFECTIVE REMEDIES - GENERAL

- Paraguay, CRC, CRC/C/111 (2001) 103 at paras. 484 and 485.
- Chile, CRC, CRC/C/114 (2002) 90 at paras. 336 and 337.

- Monaco, CRC, CRC/C/108 (2001) 97 at paras. 501 and 502.

Paragraph 501

There is no comprehensive monitoring and independent assessment of the Convention's implementation within the State party and this is of concern.

Paragraph 502

The State party should make use of existing mechanisms, or establish a new mechanism, through which the Convention's overall implementation within the State party can be monitored and assessed. Such a monitoring mechanism should be independent and also provide for individual complaint procedures, including by children.