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IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Austria, CERD, A/57/18 (2002) 15 at para. 27.

27. The Committee welcomes the fact that Austria recently made the declaration under article 14 of the Convention, recognizing the competence of the Committee to examine communications from individuals or groups of individuals.

- Belgium, CERD, A/57/18 (2002) 17 at para. 52.

52. The Committee expresses concern about reports according to which the legal provisions designed to prosecute and punish acts of racism and racial discrimination are not applied. It also expresses concern at the length of procedures for the investigation of complaints by victims of racial discrimination. The Committee recommends that the State party ensure that all acts of racism and racial discrimination are investigated and that the alleged perpetrators, if found guilty, be punished.

- Costa Rica, CERD, A/57/18 (2002) 21 at paras. 67, 73 and 74.

67. The Committee notes that according to article 7 of the Constitution of Costa Rica, international human rights treaties take precedence over domestic legislation. It also welcomes the fact that such treaties, insofar as they recognize a broader range of rights or guarantees than in the Constitution, take precedence over constitutional provisions. It further welcomes the fact that international human rights treaties can be invoked directly before the courts.

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73. The Committee is concerned that under Costa Rican legislation racial discrimination is considered merely a misdemeanour subject to a financial penalty. The State party is invited to consider whether such penalties are commensurate with the gravity of the acts committed.

74. The Committee is concerned at the situation of indigenous people, particularly:

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(b) Problems of ownership of land; that land has reportedly been appropriated by migrants and transnational enterprises;

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The Committee invites the State party to continue to pay due attention to the specific needs of this population. It recommends that the State party undertake the necessary

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measures to protect indigenous lands from being invaded and to enable the restitution of those lands that have been occupied by non-indigenous persons.

- Croatia, CERD, A/57/18 (2002) 24 at paras. 98 and 99.

98. The Committee reiterates its concern regarding the lack of legal provisions to implement the State party's obligations under article 4 (b) of the Convention, notably the absence of legislative measures prohibiting incitement to racial discrimination and violence. Concern is also expressed about the adequacy of efforts by the State party to investigate and prosecute persons responsible for fomenting ethnic hatred, especially in the localities affected by war. In this connection, the Committee notes that there have been no convictions by the courts for incitement to racial discrimination and violence, despite the significant numbers of such allegations. The Committee recommends that the State party comply fully with the obligations under article 4 of the Convention and that necessary legislative measures be taken in order to give full effect to the provisions of that article and to declare illegal and prosecute incitement to ethnic hatred and racial violence.

99. While noting the challenges confronted by the State party in meeting the needs of large numbers of refugees, returnees and displaced persons, the Committee is concerned that return is still hindered by legal and administrative impediments and hostile attitudes adopted by some central and local officials. In this regard, concern is further expressed about allegations of inconsistency and lack of transparency in the National Programme for Return. The Committee is particularly concerned about the insufficient efforts of the State party to prevent discrimination against minorities, especially Croatian Serbs, in addressing issues of restitution of property, tenancy and occupancy rights, reconstruction assistance, as well as the inter-related issues of residency and citizenship rights. The Committee recommends that the State party introduce further measures to ensure fairness, consistency and transparency in the National Programme for Return. Further, the State party is strongly urged to take effective measures to prevent discrimination, especially against Croatian Serbs, particularly as regards the restitution of their property, tenancy and occupancy rights, access to reconstruction assistance and rights to residency and citizenship...The Committee draws the attention of the State party to its general recommendation XXII concerning the rights of refugees and displaced persons.

- Jamaica, CERD, A/57/18 (2002) 30 at paras. 129-131.

129. The Committee welcomes the enactment of the Public Defenders (Interim) Act (1999), which created the office of the Public Defender to protect and enforce human rights and provide a remedy for the infringement of those rights.

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130. The Committee notes that the State party has undertaken a constitutional review process intended, *inter alia*, to provide for the enactment of a Ratification of Treaties Act to ensure the incorporation of international treaty obligations into domestic legislation. Noting that this activity has been underway for some time, the Committee encourages the State party to take further measures to finalize the review process...

131. The Committee reminds the State party that it has difficulties in accepting the mere assertion made by States parties as to the absence of racial discrimination in their territory. The Committee also reminds the State party that the absence of complaints by victims of racial discrimination could indicate a lack of awareness of available legal remedies. It encourages the State party to reconsider its position concerning racial discrimination in its territory and to implement effective measures to address direct and indirect discrimination. Moreover, the Committee recommends that the State party take appropriate measures to inform the public of the availability of legal remedies for victims of racial discrimination...

- Liechtenstein, CERD, A/57/18 (2002) 33 at para. 146.

146. The Committee notes with interest that an amendment to the law on the Supreme Court will be introduced in the near future, aimed at extending the Supreme Court's competence to hear cases of alleged violations of the rights guaranteed in the Convention. In this connection, the Committee further notes with satisfaction the State party's intention to make a declaration under Article 14.

- Lithuania, CERD, A/57/18 (2002) 35 at paras. 169 and 178.

169. The Committee notes that the explanations of the authorities relating to the status of the Convention at the national level were unclear. Although the delegation stated that national courts could apply directly some of the provisions of the Convention, it also stressed that the adoption of national legislation was necessary. The Committee calls for the rapid incorporation of all the provisions of the Convention into the national legal system, as necessary.

...

178. The Committee notes that the Parliamentary ombudsmen have received no complaints alleging discrimination by civil servants against persons on the ground of national origin, and that no criminal cases based on racial discrimination have been brought to court since 1995. The Committee recommends that awareness on these issues be raised among the police and the judiciary...

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- Qatar, CERD, A/57/18 (2002) 38 at paras. 187, 191 and 192.

187. The Committee...notes with satisfaction that the State party has established a committee to draft a permanent constitution. It notes in particular the information from the delegation of Qatar that all sectors of society are represented in that committee.

...

191. While noting that the Provisional Constitution, as well as provisions of the Islamic Shariah, the principal source of Qatar legislation, prohibit acts of racial discrimination, the Committee is of the opinion that the mere statement of the general principle of non-discrimination in the Constitution is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt legislation that meets the requirements of articles 2, 3 and 4 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda...

192. As regards the right to equal treatment before the courts, the Committee takes note of the details provided by the delegation on the judicial reforms under way with a view to the establishment of a single jurisdiction for the enforcement of new legislation in areas including civil, commercial and penal law. It would like to know whether, given the current state of legislation, non-citizens and non-Muslims who suffer discrimination and who are entitled to bring proceedings before a civil court can also bring their cases before the Islamic Shariah courts. The Committee also wishes to know to what extent the Convention can be invoked before the civil and Shariah courts, and what rules of the Shariah answer to the requirements of the Convention...

- Switzerland, CERD, A/57/18 (2002) 46 at paras. 248, 253 and 254.

248. The Committee expresses satisfaction at the establishment of a fund of 15 million Swiss francs aimed at financing projects to combat racism, which include the creation of nation-wide network of advisory centres for victims of racial discrimination. It further welcomes the creation of a Service to Combat Racism aimed, *inter alia*, at coordinating measures to combat racism, anti-Semitism, xenophobia and extremism within the federal administration and the cantons.

...

253. Allegations of police abuse and excessive use of force against persons of foreign origin during arrest or in the course of deportations are also of concern. The Committee notes that many cantons do not have independent mechanisms for investigation of complaints regarding violence and abuse by the police, and that sanctions against responsible officers have been rare. The State party should ensure that independent bodies with authority to investigate complaints against police officers are established in

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all cantons. Efforts should also be made to recruit members of minority groups into the police and to provide sensitization and training of police officers on issues of racial discrimination.

254. While commending the important work undertaken by the Federal Commission against Racism, the Committee notes that the Commission has limited powers of action. The State party is invited to strengthen the powers and means of the Federal Commission against Racism. The present exercise to consider setting up a national human rights institution should take note of the criteria for setting up such institutions established by the General Assembly in its resolution 48/134 (the Paris Principles).

- Armenia, CERD, A/57/18 (2002) 50 at paras. 277 and 285.

277. ...The Committee reminds the State party that 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. The State party is requested to supply the relevant provisions in the national legislation and to inform the public of the availability of all legal remedies...

...

285. Noting that the State party is in the process of considering the establishment of an ombudsman, the Committee encourages the State party to accelerate and complete this process and to provide the necessary human and financial resources to enable the ombudsman to carry out his/her tasks in an effective way...

- Botswana, CERD, A/57/18 (2002) 53 at paras. 298 and 307.

298. In the view of the Committee, the Constitution and the laws adopted in Botswana do not seem to respond fully to the requirements of the Convention. It recommends that the State party to ensure that the Convention is comprehensively incorporated into domestic law. The Committee also reminds the State party that the adoption of programmes and strategies to ensure the practical implementation of the Convention is necessary.

...

307. The Committee is concerned at reported cases of intimidation by local police in Gaborone against the Wayeyi people, and recommends that thorough inquiries be conducted into these cases. The Committee recommends that human rights education programmes for law enforcement officers be undertaken, especially in matters relating to the elimination of racial discrimination...

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- Canada, CERD, A/57/18 (2002) 56 at para. 339.

339. The Committee notes a significant discrepancy between the number of complaints relating to racial discrimination brought before Canadian human rights commissions and the relatively small number of positive admissibility decisions. It recommends that the State party ensure the efficiency and accessibility of the complaint system, in conformity with article 6 of the Convention.

- Estonia, CERD, A/57/18 (2002) 60 at para. 358.

358. The Committee is concerned that the limited access to remedies hinders the bringing of complaints of discrimination in relation to, *inter alia*, the labour market, housing and education. The Committee recommends that the equality council mentioned in the draft equality act be established, in accordance with general recommendation XVII, as a national human rights institution with the mandate to advise and to monitor relevant legislation and practice and with competence to deal with individual complaints against acts of discrimination in the public or private sector.

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

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

...

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

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- Mali, CERD, A/57/18 (2002) 66 at paras. 401 and 402.

401. The Committee notes that, despite the detailed information provided on the constitutional and legislative instruments prohibiting racial discrimination at the national level, the report gives no examples of their practical implementation or of the opportunity of invoking the Convention directly before the domestic courts.

402. The Committee notes with concern the lack of information concerning complaints, prosecutions or judgements relating to offences of racial discrimination. The Committee recalls that the absence of complaints or prosecutions for acts of racism in a country is not necessarily a positive sign, for no State is immune to manifestations of racism.

- New Zealand, CERD, A/57/18 (2002) 69 at paras. 415, 418 and 421.

415. The Committee welcomes the information that the “fiscal envelope” policy, which limited both the total funds available for the settlement of claims with Maori and for the settlement of all historical claims, was abandoned in 1996 in favour of a programme of “fair and equitable” settlements. The Committee is encouraged by the progress that has since been made on the settlements of historical Maori grievances and claims with individual *iwi* (tribes), including components of financial compensation and formal apology on behalf of the Crown.

...

418. The Committee notes with satisfaction the provisions of the Human Rights Amendment Act 2001, which amalgamates the New Zealand Human Rights Commission and the office of the Race Relations Conciliator and provides for a single complaints system for the determination of human rights complaints as well as for the possibility of challenging government action before the Human Rights Review Tribunal and the courts.

...

421. The Committee notes with satisfaction that the Sentencing Act 2002 provides, in section 9(1)(h), that where an offender commits an offence wholly or partly because of hostility towards a group of persons with common characteristics such as race or colour, this must be taken into account as an aggravating factor by the court in the sentencing process.

- Senegal, CERD, A/57/18 (2002) 72 at paras. 440 and 445.

440. The Committee notes with satisfaction the State party's efforts to establish institutions for the protection of human rights, such as the Human Rights Committee, the Inter-Ministerial Committee on Human Rights and the Human Rights and Humanitarian Law Office, and notes the enhanced presence of women in public bodies, their access to

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ownership of property and the banning of genital mutilation...

...

445. The Committee notes with concern the continuing legacy in Senegal of aspects of a caste-based system, despite its having been banned by law. It recommends that the State party ensure that the existing provisions are effectively applied, including by taking steps to guarantee access to justice for victims, in accordance with its general recommendation XXVI.

- Côte d'Ivoire, CERD, A/58/18 (2003) 19 at paras. 23, 25, 27, 29-31, 33, 36, 38 and 39.

23. The Committee welcomes the State party's commitment to prosecute any media which incite hatred or racial discrimination.

...

25. The Committee welcomes the Government's declaration of principle on human rights contained in its information paper describing its efforts to guarantee respect for human rights in the current crisis situation. The Committee also notes that a free telephone line has been made available to enable any victim of a human rights violation to contact the Ministry of Human Rights.

...

27. Taking note of the conclusions of the Forum on National Reconciliation on the elimination of economic and social disparities between the north and the south of Côte d'Ivoire, the Committee encourages the State party to continue its campaign to reduce regional disparities.

...

29. The Committee, recalling article 1, paragraph 3, of the Convention, notes with concern that the misuse for political ends of Nationality Code Act No. 61-415 of 14 December 1961, as amended by Act No. 72-852 of 21 December 1972, has given rise to discriminatory practices. The Committee also notes that the misuse for xenophobic purposes of the concept of "*ivoirité*", which does not appear in the Constitution, has been a key factor in the current crisis. The Committee recommends that the Nationality Code be implemented in conformity with the provisions of the Convention.

30. The Committee expresses its concern about information relating to the racial and xenophobic violence that ended in mass graves in various regions of the country and encourages the State party to continue its efforts to prevent a repetition of such violence and to punish the persons responsible for it.

31. The Committee notes with concern that the implementation of Rural Land Act No. 98-750 of 23 December 1998 created a sense of insecurity among foreigners of certain ethnic groups who owned land prior to its adoption. The Committee urges the State party to continue its efforts to explain this text better to the populations concerned and to

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ensure better protection of acquired rights.

...

33. In general, with regard to the provisions of the Constitution (particularly article 35) and the nationality legislation that has been called into question in the context of the crisis in Côte d'Ivoire, the Committee recommends that the State party take account of existing realities on the ground, in particular the coexistence of different ethnic groups, in order to guarantee that these provisions are more fully implemented.

...

36. The Committee recommends that the State party continue its efforts to adopt legislation or regulations which define the respective spheres of competence of the National Human Rights Commission and the Ombudsman's Office, spell out the procedure for bringing cases before them and determine whether their decisions are binding. More specifically, the Committee invites the State party to strengthen the guarantees of independence of these bodies so that their activities will be effective and credible, particularly for the purposes of mediation. To this end, the State party should take the appropriate measures to inform the public of the remedies available to the victims of acts of discrimination or xenophobia.

...

38. The Committee invites the Government, political parties, civil society and the armed forces to honour the State party's commitments under the Convention in order to restore peace and security and to maintain a frank and constructive dialogue with the population of Côte d'Ivoire, as is done by the Forum for National Reconciliation.

39. The Committee recalls the State party's request to have an international commission of inquiry set up to carry out investigations and establish the facts throughout the national territory in order to identify cases of serious violations of human rights and international humanitarian law since 19 September 2002. The Committee urges the State party to take the necessary measures and create the necessary conditions for such an inquiry...

- Ecuador, CERD, A/58/18 (2003) 22 at paras. 51, 63 and 64.

51. The Committee welcomes the creation by the State party of an Ombudsman's Office with special units for indigenous and Afro-Ecuadorian affairs, and of a Commission for Public Coordination of Human Rights.

...

63. The Committee is concerned about the lack of confidence on the part of members of ethnic minorities in the Ecuadorian judicial system. The State party is requested to report on the causes of this lack of confidence, and on whether the current reform of the judicial system has made it more efficient and more easily accessible for the poor.

64. The Committee recommends that the State party disseminate widely information on

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the available domestic remedies for acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaint procedure under article 14 of the Convention.

- Fiji, CERD, A/58/18 (2003) 25 at paras. 75, 78, 88, 90, 94 and 97.

75. The Committee notes the State party's intention to promote stability in the multi-ethnic and multicultural Fijian society, to restore and rebuild confidence among its citizens and communities and to strengthen the foundation for economic growth and prosperity for all in Fiji. It welcomes the creation of a Ministry of Reconciliation to help unite all Fijians.

...

78. The Committee notes with appreciation the creation in 1999 of a National Human Rights Commission, in compliance with section 42 of the Constitution and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("Paris Principles"), endorsed by the General Assembly in its resolution 48/134.

...

88. The Committee is concerned that the expiry of many leases of Native land has allegedly led to the "eviction" of numerous farmers, mainly Indo-Fijians, and that the resettlement programme of the State party appears to be insufficient. The Committee underlines the State's responsibility to provide assistance to "evicted tenants", and recommends that it increase its efforts to compensate and resettle affected families. The Committee urges the State party to develop measures of conciliation between indigenous Fijians and Indo-Fijians over the land issue, with a view to obtaining a solution acceptable to both communities.

...

90. The Committee is concerned that, according to some information, hate speech and assertions of the supremacy of indigenous Fijians occur regularly. The Committee recommends that the State party adopt all necessary measures to put an end to the dissemination of doctrines of superiority based on ethnic origin, which are socially unjust and dangerous, as well as in breach of the Convention...

...

94. The Committee recommends that the State party continue to support the activities of the National Human Rights Commission. It would like to receive more information about the results of its activities, as well as on the practical implications of article 27 of the Human Rights Commission Act, authorizing the Commission not to investigate a case when it "has before it matters more worthy of its attention" or when the "resources of the Commission are insufficient for adequate investigation".

...

97. The Committee notes the State party's view that the remedies provided under

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national and international law are sufficient, and that making the declaration provided for in article 14 of the Convention is not necessary. The Committee, stressing that the State party has not provided enough information to demonstrate that the available remedies are sufficient, reminds the State party that the remedies provided in article 14 of the Convention may be considered as complementary to the existing ones. It therefore invites the State party to reconsider its position and to envisage the possibility of making the declaration.

- Ghana, CERD, A/58/18 (2003) 30 at paras. 107, 108, 111, 112 and 117.

107. The Committee appreciates the approach adopted by the State party that seeks to respect the customs and traditions of various ethnic groups on its territory, while at the same time enhancing the enjoyment of human rights for all. It further notes that, under article 26 of the Constitution, which protects cultural rights, customary practices which dehumanize or are injurious to the physical and mental well-being of a person are prohibited.

108. The Committee notes with satisfaction the important role played by the CHRAJ [Commission for Human Rights and Administrative Justice] in the protection of human rights, particularly the right to be protected from racial discrimination and intolerance, as well as the activities carried out in the field of human rights education and tolerance by both the CHRAJ and the National Commission for Civic Education (NCCE). The decentralized set-up of the CHRAJ and its ongoing cooperation with civil society are noted with satisfaction; the Committee considers that these are good ways to reach out to people and to secure better implementation of the Convention.

...
111. The Committee is concerned that the existence of ethnic discrimination persists as an undercurrent in Ghanaian society and that, according to a 1997 survey, 25 per cent of respondents felt discriminated against due to their tribal origins. The Committee recommends that high priority be given to the eradication of discriminatory practices and racial prejudices in Ghana, through the strengthening of education in general and of human rights education programmes in particular, the criminalization of acts of racial discrimination and effective punishment.

112. The Committee is particularly concerned about the occurrence of sporadic violent ethnic conflicts in Ghana and welcomes the efforts undertaken by the State party in this regard. It notes, in particular, the role of traditional and religious leaders in the resolution of conflicts relating to land and chieftaincy or involving customary law...

...
117. The Committee welcomes the frankness with which the State party has stated that the existing legislation does not meet the requirements of article 4, paragraphs (a), (b)

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and (c), of the Convention. The Committee notes that the Criminal Code is currently being reviewed and revised, and encourages the State party to accelerate this process and to ensure that the new legislation will comply fully with article 4...

- Morocco, CERD, A/58/18 (2003) 33 at paras. 134 and 141.

134. The Committee...welcomes the establishment of an Ombudsman, known as the Diwan Al Madhalim, which is required, *inter alia*, to receive and consider complaints submitted by Moroccan citizens who consider themselves harmed by a decision or action taken by a State authority.

...

141. ...The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in the national legislation and to inform the public about all legal remedies in the field of racial discrimination.

See also:

- Tunisia, CERD, A/58/18 (2003) 47 at para. 255.
- Bolivia, CERD, A/58/18 (2003) 58 at para. 343.

- Poland, CERD, A/58/18 (2003) 35 at paras. 160 and 162.

160. The Committee is concerned about reports of racially motivated harassment and discrimination against Jews, Roma and persons of African and Asian origin which have not been properly investigated by the law enforcement agencies. The Committee recommends that the State party intensify its efforts to combat and punish all such cases, especially through the strict application of relevant legislation and regulations providing for sanctions. It further recommends that law enforcement bodies be given adequate training and instructions on how to address complaints of racially motivated crimes and that similar training be provided to the judiciary.

...

162. The Committee welcomes the State party's efforts to implement the comprehensive programme to guarantee the rights of the Roma population in the Malopolska region and encourages the State party to extend the programme to other regions of the country, taking into account general recommendation XXVII (57) of 16 August 2000 concerning discrimination against Roma. It further recommends that the State party pay particular attention to the rights to housing and to employment of the

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Roma population...

- Russian Federation, CERD, A/58/18 (2003) 38 at paras. 178, 182, 190 and 195.

178. The Committee notes with concern the absence of a definition of racial discrimination in domestic legislation. While laws may protect against discrimination without employing the actual term “discrimination”, the Committee encourages the State party to consider introducing into relevant laws an explicit prohibition of racial discrimination as defined in article 1 of the Convention.

...

182. The Committee is concerned about numerous reports that residence registration is used as a means of discriminating against certain ethnic groups, and that the lack of residence registration is used to deny a number of political, economic and social rights. While welcoming the fact that courts in the State party have declared such practices unconstitutional, the Committee recommends that the State party ensure that, in the implementation of the residence registration system, the standards laid down in federal law and supported by decisions of the Constitutional and Supreme Courts are strictly applied.

...

190. While welcoming the steps taken to implement article 4 of the Convention, the Committee is concerned about the lack of a clear definition of the concept of political extremism in the federal law of 2002 “On Counteracting Extremist Activities”. The Committee encourages the State party to review the law with a view to defining its scope more clearly.

...

195. The Committee is concerned about the incidence of violent racist attacks against ethnic minorities by, among others, skinheads and neo-Nazis. In this regard, the Committee recommends that the State party strengthen its efforts to prevent racist violence and protect members of ethnic minorities and foreigners, including refugees and asylum-seekers...

- Saudi Arabia, CERD, A/58/18 (2003) 41 at paras. 210 and 211.

210. While noting that the Basic Law, and provisions of Royal Decrees, regulations and codes, as well as the Islamic Shariah, guarantee equality, the Committee is of the opinion that the mere statement of the general principle of non-discrimination in these laws is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt legislation that meets the requirements of articles 2, 3 and 4 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of

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legislation expressly prohibiting racial discrimination and racist propaganda.

211. Moreover, the Committee emphasizes that guarantees of non-discrimination laid down in law, without mechanisms to monitor their application, do not on their own ensure the enjoyment of non-discrimination...

- Slovenia, CERD, A/58/18 (2003) 45 at paras. 230 and 233.

230. The Committee welcomes the fact that Slovenia has made the declaration under article 14 of the Convention, recognizing the competence of the Committee to examine communications from individuals or groups of individuals. The Committee encourages the State party to take steps to make this mechanism known as widely as possible.

...

233. The Committee is encouraged by the recent steps taken by the State party with a view to further implementing the Convention, such as the adoption of specific anti-discrimination legislation, *inter alia*, the Act on Media 2001, the Resolution on Migration Policy 2002, the Act amending the Local Government Act 2002, the Exercising of the Public Interest in Culture Act 2002 and the Employment Act 2002).

- Tunisia, CERD, A/58/18 (2003) 47 at para. 249.

249. The Committee welcomes the fact that, pursuant to article 32 of the Constitution, international instruments ratified by the State party, including the International Convention on the Elimination of All Forms of Racial Discrimination, take precedence over norms of the State party's domestic law, and may be invoked directly before the Courts.

- Uganda, CERD, A/58/18 (2003) 50 at paras. 266, 272 and 279.

266. The Committee notes with satisfaction that the State party enacted a new Constitution in 1995 which incorporates the basic provisions of the Convention, particularly the right to equality before the law and the prohibition of racial discrimination.

...

272. While noting with satisfaction the legislative measures and judicial mechanisms in place to ensure the return of property to persons of Asian origin, the Committee regrets that such measures have not been fully carried through, due mainly to insecurity in the country and the lack of adequate administrative measures...

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279. The Committee encourages the State party to provide support to the Ugandan Human Rights Commission and to take into consideration the recommendations that the Commission submits to Parliament...

- Albania, CERD, A/58/18 (2003) 53 at paras. 300 and 320.

300. The Committee commends the action taken by the Albanian authorities against organized crime and corruption, which are particularly harmful to the most vulnerable social groups.

...

320. The Committee notes that very few complaints of racial discrimination have been dealt with by the People's Advocate and that no court decision has been issued on any complaint.

The Committee recommends that the State party verify that the lack of any such complaints is not the result of victims' lack of awareness of their rights, individuals' lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination...

- Bolivia, CERD, A/58/18 (2003) 58 at paras. 333 and 334.

333. The Committee welcomes the numerous measures undertaken for the promotion and protection of human rights, including the recognition in the new Constitution of 1995 of Bolivia as a multi-ethnic and multicultural State, the recent establishment of the post of Ombudsman (Defensor del Pueblo), the entry into force in 1999 of the new Penal Procedure Code and the approval of the gender equality plan 2003-2007. The Committee also notes with appreciation the establishment in each municipality of an Ombudsman for Children and Adolescents.

334. As to article 2 of the Convention, the Committee takes note with satisfaction of the information that local offices attached to the Ministry of Justice and Human Rights have been opened to receive complaints of human rights violations.

- Cape Verde, CERD, A/58/18 (2003) 62 at paras. 356 and 366.

356. The Committee notes with appreciation the commitment to human rights manifested by Cape Verde through the ratification of a large number of international instruments as well as the establishment of relevant institutions and the implementation of pertinent programmes in the field of human rights. The Committee also welcomes the fact that the international human rights instruments ratified by Cape Verde are

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directly applicable before the domestic courts.

...

366. The Committee...requests the State party to ensure that appropriate provisions are available in national legislation and to inform the public about all legal remedies in the field of racial discrimination.

- Czech Republic, CERD, A/58/18 (2003) 65 at paras. 377, 380, 383 and 387.

377. The Committee is encouraged by the legislative efforts of the State party to give effect to the provisions of the Convention, in particular in the field of protection of national minorities, as well as the amendment to the Criminal Code adopted in 2002 and the amendments to the Civil Procedure Code reversing the burden of proof from the victim to the alleged offender.

...

380. While noting the efforts of the Government to elaborate a comprehensive anti-discrimination law, the Committee is concerned about the difficulties faced during this process.

The Committee encourages the State party to complete its efforts with regard to the comprehensive anti-discrimination law promptly and subsequently to ensure its effective enforcement. It urges the State party to incorporate in the new law the definition of discrimination as stipulated in article 1 (1) of the Convention.

...

383. The Committee is concerned about allegations of racially motivated ill-treatment, ineffective protection and discrimination against the Roma by law enforcement officials, especially the police. Furthermore, it has been suggested that allegations of abuse by law enforcement officials are not always promptly and impartially investigated. While noting the many initiatives taken in the field of training and education of the police, the Committee stresses that prompt and impartial investigations are paramount in countering discriminatory attitudes and practices. The Committee recommends that the State party intensify its efforts to end such discriminatory practices.

It further recommends that the procedure relating to the investigation of complaints with respect to the work of the police be conducted and overseen by a body independent of the police and the Ministry of the Interior...

...

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

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reparation.

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

- Finland, CERD, A/58/18 (2003) 69 at paras. 400, 402 and 410.

400. The Committee welcomes the adoption, on 22 March 2001, of a Plan of Action to combat ethnic discrimination and racism aiming to support and develop measures enhancing good inter-ethnic relations and preventing ethnic discrimination and racism in Finnish society. In this connection, the Committee also welcomes the appointment, on 1 September 2001, within the framework of the Plan of Action, of a Minority Ombudsman.

...

402. The Committee welcomes the approval in January 2003 of a government bill revising the Penal Code and including "racist motives" as aggravating circumstances of a crime. It also notes with satisfaction the introduction of a provision punishing participation in organizations which promote or incite racial discrimination.

...

410. The Committee notes that one of the reasons victims of acts of racial discrimination are reluctant to file a complaint before the competent authorities is the assumption that the complaint would not lead to any result.

The Committee recommends that the State party disseminate as widely as possible information on and raise public awareness of the domestic remedies available against acts of racial discrimination, the legal avenues for obtaining compensation in cases of discrimination and the individual complaint procedure under article 14 of the Convention.

- Islamic Republic of Iran, CERD, A/58/18 (2003) 72 at paras. 429 and 430.

429. The Committee takes note that the Article 90 Commission of the Islamic Consultative Assembly and the Administrative Justice Tribunal have limited competence with respect to article 6 of the Convention.

The Committee recommends that the State party consider expanding the sphere of operation of those institutions in order to ensure effective protection and remedies against all acts of racial discrimination.

430. The Committee notes the lack of information on the implementation of article 6 of the Convention.

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The Committee recommends that the State party consider whether the lack of any complaints is not the result of the victims' lack of awareness of their rights, the lack of confidence on the part of individuals in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination...

- Latvia, CERD, A/58/18 (2003) 75 at paras. 447 and 455.

447. The Committee is concerned at the low number of cases initiated relevant to article 4 and recommends that the State party consider whether the limited numbers of complaints is not the result of the victims' lack of awareness of their rights, a lack of confidence on the part of individuals in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination...

...

455. While noting that the State party is in the process of improving its legislation with a view to providing effective protection and remedies against any acts of racial discrimination, including the right to seek reparation for discrimination, the Committee is concerned at the very low level of awareness among the population of such a possibility.

The Committee recommends that the State party intensify its efforts to adopt and improve legislation in this respect. The State party is further encouraged to publicize the availability of legal remedies with a view to reaching out to the most vulnerable segments of society.

- Saint Vincent and the Grenadines, CERD, A/58/18 (2003) 85 at para. 507.

507. The Committee welcomes the fact that under section 16 of the Constitution, any individual alleging that his/her rights, as enshrined in the Constitution, have been violated can apply to the High Court for redress.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/58/18 (2003) 88 at paras. 525, 530, 533, 540 and 541.

525. The Committee welcomes the Police Reform Act, which includes provisions to create a new and more effective police complaints system in England and Wales; the establishment of the Police Ombudsman for Northern Ireland; and the consultations in Scotland on enhancing the independence of the Police Complaints System.

...

530. The Committee takes note of the State party's position regarding the non-inclusion

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of the full substance of the Convention within the State party's domestic legal order and that there is no obligation for States parties to make the Convention itself part of their domestic legal order. It is concerned that the State party's courts will not give legal effect to the provisions of the Convention unless the Convention is expressly incorporated into its domestic law or the State party adopts necessary provisions in its legislation.

The Committee recommends that the State party review its legislation in order to give full effect to the provisions of the Convention in its domestic legal order.

...

533. The Committee remains concerned at reports of attacks on asylum-seekers. In this regard, the Committee notes with concern that antagonism towards asylum-seekers has helped to sustain support for extremist political opinions.

The Committee recommends that the State party adopt further measures and intensify its efforts to counter racial tensions generated through asylum issues, *inter alia* by developing public education programmes and promoting positive images of ethnic minorities, asylum-seekers and immigrants, as well as measures making the asylum procedures more equitable, efficient and unbiased.

...

540. The Committee is concerned about reported cases of "Islamophobia" following the 11 September attacks. Furthermore, while the Committee takes note that the State party's criminal legislation includes offences where religious motives are an aggravating factor, it regrets that incitement to racially motivated religious hatred is not outlawed.

The Committee recommends that the State party give early consideration to the extension of the crime of incitement to racial hatred to cover offences motivated by religious hatred against immigrant communities.

541. While reiterating its satisfaction in connection with the enactment of the Human Rights Act of 1998, the Committee notes that no central body has been established to implement the Act. The Committee considers that the absence of such a body may undermine the effectiveness of the Act.

The Committee refers to the earlier commitment of the State party to consider establishing a Human Rights Commission in order to enforce the Act and the possibility of granting such a commission comprehensive competence to review complaints of human rights violations, and recommends an early decision in this regard.

- Malawi, CERD, A/58/18 (2003) 93 at paras. 555, 556 and 562.

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555. The Committee welcomes the establishment of the Malawi Human Rights Commission in 1999, endowed with the task of protecting and promoting human rights, investigating human rights violations and following up individual complaints.

556. The Committee notes that the State party's Constitution prohibits discrimination, particularly on the grounds of race, colour, language, religion, nationality and ethnic origin, and allows for the adoption of legislation to address inequalities in society and to prohibit discriminatory practices. It welcomes the adoption of the Employment Act in 2000 which bans discrimination in the context of employment. The Committee is nevertheless concerned that no further legislation has been adopted to prevent and eliminate racial discrimination.

The Committee recalls that the inclusion of a general principle of non-discrimination in the Constitution is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt further legislation in order to meet the requirements of articles 2, 3, 4 and 5 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda...

...

562. The Committee is concerned that the budgetary constraints facing the Malawi Human Rights Commission may limit its effectiveness.

The Committee...recommends that information on the functions and activities of the Malawi Human Rights Commission be disseminated both in English and in Chichewa.

- Bahamas, CERD, A/59/18 (2004) 10 at paras. 30, 31, 33-36 and 39.

30. The Committee regrets that the Bahamas has still not passed a law meeting the requirements of article 4 of the Convention, while noting that the State party does intend to modify its legislation to that effect.

The Committee encourages the State party to comply with the requirements of article 4 of the Convention. It also suggests including racial motivation as an aggravating factor in criminal law.

31. The Committee is concerned at reports of statements and press articles inciting racial discrimination against migrants, Haitians in particular, and actual discrimination against migrants in fields such as education and employment. It is disturbed to hear that the State party says it has not been told of such allegations.

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The Committee recommends the State party to conduct an inquiry into these allegations and notify the Committee of the outcome. Where appropriate, the State party should take all necessary punitive, educational and other measures to put an end to such conduct.

...

33. The Committee takes note of the constitutional reform process now in progress but is concerned at the fact that the Constitution contains discriminatory provisions on the subject of women's rights to transmit their nationality to their children and foreign spouses.

It invites the State party to continue its efforts to remedy such discrimination, and draws its attention to the Committee's general recommendation XXV (2000) on gender-related dimensions of racial discrimination.

34. The Committee notes with concern that people entering the country without proper papers are automatically detained without such detention being subjected to judicial review. It takes note of the delegation's statement that such detention does not generally last longer than a few days but is disturbed at reports emphasizing that such detention sometimes extends to a year and more, depending on migrants' nationalities.

The Committee emphasizes that detention should be a last resort and invites the State party to adopt alternatives to detention for undocumented migrants and asylum-seekers. It recommends the institution of a right of appeal against orders to detain people entering the country without proper papers; such individuals should be duly informed of their rights and maximum duration of detention should be strictly defined.

35. The Committee notes that it has not received sufficient information on the rights of asylum-seekers and is disturbed by reports that the current system is incapable of guaranteeing that no one will be sent back to a country where his life or liberty might be in danger.

The Committee advises the State party to guarantee the rights of asylum-seekers to information, the services of an interpreter, legal assistance and judicial remedies...

36. The Committee is disturbed that the State party has not yet adopted measures to implement into domestic law the 1951 Convention relating to the Status of Refugees and the related Protocol of 1967, which the Bahamas ratified in 1993.

The Committee takes note of the information that a bill on the matter is currently being drafted and encourages the State party to adopt the necessary measures to implement the Convention and Protocol into domestic law, in particular as regards the *non-refoulement* clause provided in article 33 of the 1951 Convention.

...

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39. The Committee notes the State party's assertion that there have been neither complaints nor court decisions on the subject of racial discrimination, and which is put forward as evidence of the absence of racial discrimination in the Bahamas.

The Committee urges the State party to investigate why there are no complaints of racial discrimination and whether, in particular, it may be because the country does not have a sufficient span of legislation to combat discrimination. The State party should also verify that the lack of such complaints is not the result of victims' lack of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

- Brazil, CERD, A/59/18 (2004) 14 at paras. 50, 61 and 64.

50. The Committee commends the entry into force, in January 2003, of the new Civil Code, which is in line with the 1988 Constitution and eliminates discriminatory restrictions on the exercise of civil rights by indigenous peoples contained in the former 1916 Civil Code.

...

61. The Committee is concerned that only a few *quilombo* areas have been officially recognized, and that an even smaller number of these communities have received permanent title deeds to their lands.

The Committee recommends that the State party accelerate the process of identification of *quilombo* communities and lands and distribution of the respective title deeds to all such communities.

...

64. The Committee is disturbed by the increase in the number of racist organizations, such as neo-Nazi groups, and the spread of racist propaganda on the Internet.

The Committee recommends that the State party clarify further the content and application of the relevant provisions of domestic law that address the existence and activity of racist organizations, as well as those that prohibit racist propaganda on the Internet.

- Lebanon, CERD, A/59/18 (2004) 18 at para. 84.

84. While acknowledging the political factors related to the presence of Palestinian refugees in Lebanon, the Committee reiterates its concern with regard to the enjoyment by the Palestinian population present in the country of all rights stipulated in the Convention on the basis of non-discrimination, in particular access to work, health care,

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housing and social services as well as the right to effective legal remedies. The Committee notes the statement of the delegation that the 2001 property law does not apply retroactively and that Palestinians' right to inherit remains in force.

The Committee urges the State party to take measures to ameliorate the situation of Palestinian refugees with regard to the enjoyment of the rights protected under the Convention, and at a minimum to remove all legislative provisions and change policies that have a discriminatory effect on the Palestinian population in comparison with other non-citizens.

- Libyan Arab Jamahiriya, CERD, A/59/18 (2004) 21 at paras. 102, 103 and 109.

102. The Committee...notes the absence of comprehensive legislation to prevent and prohibit racial discrimination, in particular under article 4 of the Convention. It wishes to underline that, although the Convention prevails over the State party's domestic law, article 4 cannot be directly implemented, as it calls for the enactment of specific provisions setting out sanctions to be applied to offences strictly defined under the law.

The Committee recommends to the State party that it enact legislation responding to all requirements of article 4 of the Convention.

103. The Committee is deeply concerned about reported acts of violence, stemming from anti-Black sentiment in the population, which were perpetrated in September 2000 against African migrant workers and led to the death of many persons. The Committee regrets that no updated response was provided by the State party on the action taken to sanction those responsible and prevent the occurrence of such violence in the future.

The Committee requests that the State party submit detailed information about the number of persons who died and their nationality, the results of the inquiry made by the authorities, the prosecution of persons in relation to these events, and sentences, if any, that were pronounced. The Committee also wishes to receive information about the results of the measures previously announced by the State party in response to these events, in particular the creation of a committee to look into the events and to study all manifestations of xenophobia, as well as measures for the regularization of undocumented migrants.

...

109. Noting that the State party has not provided information on the practical implementation of article 6 of the Convention, the Committee recommends that the State party raise the awareness of the population on their rights under the Convention, including their right to an effective remedy, and to sensitize the police and judicial authorities to the issue of racial discrimination.

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- Nepal, CERD, A/59/18 (2004) 24 at paras. 129, 130, 133 and 134.

129. The Committee regrets the lack of information on prosecutions launched and penalties imposed in cases of offences which relate to racial discrimination, and the role of the National Human Rights Commission and the National Dalit Commission in dealing with such cases. The Committee stresses the need for a determined enforcement of the criminal justice system, and reminds the State party that the absence of complaints and legal action by victims of racial discrimination may be the result of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute...

130. The Committee is concerned at the allegations of ill-treatment and ineffective protection of and discrimination against Dalits and other vulnerable groups in society, by law enforcement officials, especially the police. The Committee stresses that prompt and impartial investigations are paramount in counteracting discriminatory attitudes and practices.

The Committee recommends that the State party intensify its efforts to end such discriminatory practices. It further recommends that the procedure relating to the investigation of complaints with respect to the work of the police be conducted and overseen by a body independent of the police.

...

133. The Committee is concerned that, although the system of agricultural bonded labour known as *Kamaiya* was abolished in July 2000, the emancipated *Kamaiyas* are facing many problems, including lack of housing, land, work and education for their children.

The Committee recommends that the State party ensure effective enforcement of the Bonded Labour Prohibition Act 2002 and programmes adopted to put an end to the practice and discrimination against *Kamaiyas*

134. The Committee is concerned by information that only the Tibetans who arrived in Nepal before 1990 and the Bhutanese are recognized as refugees by the authorities, and by recent information on forced expulsion of Tibetan refugees. It further expresses concern over the serious restriction of rights for the Bhutanese refugees and the lack of specific measures for unaccompanied refugee children.

The Committee reiterates its concern at the absence of legislative protection for refugees and asylum-seekers, and urges the State party to enact relevant legislation, and to ratify international instruments relating to the protection of refugees...

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- The Netherlands, CERD, A/59/18 (2004) 29 at para. 145.

145. The Committee welcomes the progress made towards the full implementation of article 4 of the Convention through the adoption of further amendments to the Criminal Code increasing the maximum penalties for structural forms of systematic racial discrimination.

- Spain, CERD, A/59/18 (2004) 32 at para. 170.

170. Concern is...expressed about allegations received of instances of police misbehaviour towards ethnic minorities or persons of non-Spanish origin, including abusive and insulting speech, ill-treatment and violence.

The Committee draws the State party's attention to its general recommendation XIII on the training of law enforcement officials in the protection of human rights and recalls that law enforcement officials should receive intensive training to ensure that in the performance of their duties they respect and protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

- Suriname, CERD, A/59/18 (2004) 36 at paras. 184, 190, 192-194 and 197.

184. The Committee notes with satisfaction that, under the constitutional arrangements in force in the State party, the Convention takes priority over domestic legislation.

...

190. The Committee is concerned that, more than 10 years after the 1992 Peace Accord, the State party has not adopted an adequate legislative framework to govern the legal recognition of the rights of indigenous and tribal peoples (Amerindians and Maroons) over their lands, territories and communal resources.

While noting the principle set forth in article 41 of the Constitution that natural resources are the property of the nation and must be used to promote economic, social and cultural development, the Committee points out that this principle must be exercised consistently with the rights of indigenous and tribal peoples. It recommends legal acknowledgment by the State party of the rights of indigenous and tribal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources.

...

192. While also noting the State party's assertion that there are mechanisms

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guaranteeing that indigenous and tribal peoples are notified and consulted before any forestry or mining concessions within their lands are awarded, the Committee is disturbed at reports that consultation of that kind is rare.

The Committee invites the authorities to check that the established mechanisms for notifying and consulting the indigenous and tribal peoples are working, and recommends that the State party strive to reach agreements with the peoples concerned, as far as possible, before awarding any concessions.

193. The Committee notes that, under the draft Mining Act, indigenous and tribal peoples will be required to accept mining activities on their lands following agreement on compensation with the concession holders, and that if agreement cannot be reached, the matter will be settled by the executive, and not the judiciary. More generally, the Committee is concerned that indigenous and tribal peoples cannot as such seek recognition of their traditional rights before the courts because they are not recognized legally as juridical persons.

The Committee recommends that indigenous and tribal peoples should be granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.

194. The Committee notes with concern complaints by indigenous and tribal peoples in the interior about the deleterious effects of natural-resource exploitation on their environment, health and culture. It regrets that the State party does not seem to have attached the highest priority to dealing with the problem of mercury contamination in parts of the interior.

The Committee wishes to point out that development objectives are no justification for encroachments on human rights, and that along with the right to exploit natural resources there are specific, concomitant obligations towards the local population; it recommends adoption by the State party of a legislative framework that clearly sets forth the broad principles governing the exploitation of the land, including the obligation to abide by strict environmental standards. It recommends the State party to set up an independent body to conduct environmental impact surveys before any operating licenses are issued, and to conduct health and safety checks on small-scale and industrial gold-mining.

...

197. The Committee expresses surprise at the State party's statement that the Maroons and Amerindians have never officially complained about the effects of natural-resource exploitation.

The Committee recommends that an information campaign be directed to the indigenous and tribal peoples, informing them what remedies are available for upholding their rights

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and interests, and that investigations take place whenever the State party receives reports that the rights of indigenous and tribal peoples have been flouted.

- Sweden, CERD, A/59/18 (2004) 41 at paras. 214, 218, 220 and 222.

214. The Committee welcomes the adoption of a series of legislative measures undertaken by the State party to combat racial discrimination, including:

(a) The new Prohibition of Discrimination Act, which entered into force on 1 July 2003.

The Committee takes note with satisfaction that the new Act broadens the scope of protection against ethnic discrimination, requires the complainant to establish only a *prima facie* case of discrimination and extends the field of supervision of the Ombudsman against Ethnic Discrimination;

(b) The new Group Proceedings Act, which entered into force on 1 January 2003, providing the possibility, in specific circumstances, of instituting class action suits in cases of alleged discrimination;

(c) The amendments to the Fundamental Law on Freedom of Expression, which came into force in January 2003, which facilitates the bringing of legal action in cases of racial agitation;

(d) The new Act on Citizenship, which came into force on 1 July 2001, accepting the possibility of dual citizenship and facilitating the acquisition of Swedish citizenship for children of foreign background.

...

218. While the Committee takes note with satisfaction of the State party's efforts to combat hate crimes, it is concerned about allegations that few of these reported crimes have led to prosecutions and that the relevant domestic legal provisions are rarely applied.

The Committee recommends that the 2002 instruction addressed to public prosecutors by the Office of the Prosecutor General to give priority to these kinds of crimes be actively implemented and that the relevant criminal law provisions be effectively applied...

...

220. The Committee takes note of the fact that the State party continues to uphold its interpretation of the provisions of article 4 of the Convention, maintaining that criminal acts committed by the members or supporters of a racist organization may be prohibited and penalized by law, but not the existence of, and participation in, racist organizations.

The Committee draws the State party's attention to its general recommendation XV according to which all provisions of article 4 of the Convention are of a mandatory

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character, including declaring illegal and prohibiting all organizations promoting and inciting racial discrimination, as well as recognizing participation in such organizations as an offence punishable by law. Accordingly, the Committee recommends that the State party reconsider its position and adopt the necessary legislation in order to ensure full compliance with article 4 (b) of the Convention.

...

222. While the Committee welcomes the appointment in 2002 of the Boundary Commission to formulate proposals for the definition of the boundaries for Sami reindeer-breeding areas by the end of 2004 as an important step towards securing the rights of the Sami people, it remains concerned that issues related to Sami land rights remain unresolved.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee encourages the State party to ensure that the Boundary Commission fulfils its task within the scheduled time. Consequently, it also recommends that the State party introduce adequate legislation, in consultation with the Sami people, regarding the findings of the Boundary Commission, in order to remove the legal uncertainty relating to Sami land rights.

- Argentina, CERD, A/59/18 (2004) 45 at paras. 244, 246, 248 and 249.

244. The Committee is disturbed by reports of trafficking of migrants, particularly migrant women exploited as sexual workers.

The Committee urges the State party to develop comprehensive policies and allocate adequate resources to prevent, investigate and punish these crimes, as well as to provide assistance and support to victims...

...

246. The Committee is concerned about the State party's failure to enact the necessary legislation to implement the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee further notes reported difficulties in recognizing the legal personality of indigenous peoples, the inadequate protection in practice of indigenous peoples' ownership and possession of ancestral lands and the consequential impairment of indigenous peoples' ability to practise their religious beliefs.

In the light of its general recommendation XXIII, the Committee urges the State party to: fully implement ILO Convention No. 169; adopt, in consultation with indigenous peoples, a general land tenure policy and effective legal procedures to recognize indigenous peoples' titles to land and to demarcate territorial boundaries; adopt measures to safeguard indigenous rights over ancestral lands, especially sacred sites, and compensate indigenous peoples for land deprivation; ensure access to justice, as well as

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recognize effectively the legal personality of indigenous peoples and their communities in their traditional way of life, and respect the special importance for the culture and spiritual values of indigenous peoples of their relationship with the land.

...

248. The Committee takes note that the Coordinating Council of Argentine Indigenous Peoples envisaged by Act No. 23,302 to represent indigenous peoples in the National Institute of Indigenous Affairs has still not been established.

The Committee recalls its general recommendation XXIII on the rights of indigenous peoples, which calls upon States parties to ensure that no decisions directly relating to the rights and interests of indigenous peoples are taken without their informed consent, and urges the State party to ensure that the Council is established as soon as possible and that sufficient funds are allocated for the effective functioning of the Council and the Institute.

249. The Committee regrets that despite the State party's efforts, the right to a bilingual and intercultural education for indigenous peoples recognized by the Constitution is not fully respected in practice. It takes note with concern of allegations regarding the lack of adequate training provided to indigenous teachers and discrimination faced by them, as well as the insufficient measures to preserve indigenous languages and to include the history and culture of indigenous peoples in school curricula.

The Committee recommends that the State party adopt all necessary measures to ensure, in consultation with the indigenous communities, a bilingual and intercultural education for indigenous peoples with full respect for their cultural identity, languages, history and culture, bearing also in mind the wider importance of intercultural education for the general population. It further recommends that adequate training be provided to indigenous teachers and effective measures be adopted to combat all forms of discrimination against them...

- Belarus, CERD, A/59/18 (2004) 50 at paras. 263, 265 and 268.

263. The Committee draws the attention of the State party to racist and xenophobic incidents in Belarus.

The Committee encourages the State party to continue to monitor all tendencies that give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee also recommends that the State party intensify its efforts to ensure to everyone within its jurisdiction effective protection and remedies against acts of racial discrimination.

...

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265. While acknowledging the awareness-raising efforts made by the State party, the Committee notes with concern that Belarus is a country of transit for the trafficking of women and girls for the purpose of sexual exploitation.

The Committee recommends to the State party that it reinforce ongoing efforts to prevent and combat trafficking and provide support and assistance to victims, wherever possible in their own language. Furthermore, the Committee urges the State party to make determined efforts to prosecute the perpetrators and underlines the paramount importance of prompt and impartial investigations.

...

268. While taking note of the legislative provisions providing for the right to effective protection and remedies in the State party, the Committee reiterates its concern over the lack of specific information and statistics on cases where the relevant provisions of domestic legislation concerning racial discrimination were applied.

...The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be largely an indication of the absence of relevant specific legislation, a lack of awareness of the availability of legal remedies, or insufficient will by the authorities to prosecute. It is therefore essential to provide for the relevant provisions in national legislation and to inform the public of the availability of all legal remedies in the field of racial discrimination. The Committee also encourages the State party to continue its efforts to foster independence of the judiciary in the light of the findings of the special rapporteur on the independence of the judges and lawyers following his mission to Belarus in 2001 (see E/CN.4/2001/65/Add.1).

- Kazakhstan, CERD, A/59/18 (2004) 54 at paras. 285, 293, 295 and 296.

285. The Committee notes that there is no specific legislation in the State party regarding racial discrimination.

The Committee is of the view that specific domestic law regarding racial discrimination, implementing the provisions of the Convention, as well as a legal definition of racial discrimination that complies with the provisions of the Convention, would be a useful tool to combat racial discrimination in the State party.

...

293. While acknowledging that the State party has developed a governmental work plan to combat human trafficking, the Committee notes with concern that there is ongoing trafficking of women and children, particularly affecting non-citizens and ethnic minorities.

...[T]he Committee urges the State party to make determined efforts to prosecute the

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perpetrators and underlines the paramount importance of prompt and impartial investigations.

...

295. The Committee notes with concern that, with the exception of the judges of the Supreme Court, all the judges are appointed by the President, who also determines the organization of the work of the courts.

The Committee recommends that the State party strengthen the independence of the judiciary and other State organs in order to provide everyone with effective protection and remedies against any acts of violation of the Convention...

296. The Committee notes the absence of court cases regarding racial discrimination in the State party and that only two complaints of racial discrimination were brought before the Commission on Human Rights in 2000 and 2001.

The Committee recommends that the State party ensure that the paucity of complaints is not the result of victims' lack of awareness of their rights or limited financial means, or their lack of confidence in the police and the judicial authorities, or to the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee urges the State party to ensure that appropriate provisions are available in the national legislation regarding effective protection and remedies against violation of the Convention and to disseminate as widely as possible among the public information on the legal remedies available.

- Madagascar, CERD, A/59/18 (2004) 58 at paras. 316 and 321.

316. The Committee notes that incitement to tribal and racial hatred occurs sporadically and that acts of racial violence have been committed against members of the Indian/Pakistani community.

The Committee recommends that additional measures be taken to prevent such acts, and that the perpetrators should be brought to justice in accordance with relevant domestic legislation, promulgated pursuant to article 4 of the Convention...

...

321. The Committee notes that neither the National Human Rights Commission nor the Office of the Ombudsman has the power to hear and consider individual complaints.

The Committee recommends that the State party strengthen the powers of these two institutions, by conferring on them the power to hear and consider complaints and to make recommendations prior to the intervention of judicial authorities. The Principles relating to the status of national institutions for the promotion and protection of human

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rights (the Paris Principles) (General Assembly resolution 48/134) should be applied where the National Human Rights Commission is concerned.

- Mauritania, CERD, A/59/18 (2004) 61 at paras. 339, 342 and 350.

339. The Committee, while taking note of orders No. 91-023 and No. 091-024 of 25 July 1991 on freedom of the press and on political parties, respectively, notes with concern that the State party's legislation does not fully meet the requirements of article 4 of the Convention, in that the provisions of the Criminal Code do not expressly address racial or ethnic discrimination.

The Committee recommends that the State party fill this gap in its legislation, including by providing that racially motivated offences be considered an aggravating circumstance in the commission of an offence.

...

342. The Committee notes with concern that vestiges of the caste system persist in Mauritania. While welcoming the fact that slavery was abolished by a law dated 9 November 1981, it remains concerned about information on the persistence of slavery-like practices, which constitute serious instances of discrimination based on descent. It is concerned that no implementing orders have been issued subsequent to the 1981 law and that there is no provision in criminal law that expressly punishes slavery.

The Committee draws the State party's attention to its general recommendation XXIX concerning racial discrimination based on descent...It strongly recommends that the State party launch, in cooperation with non-governmental organizations and religious leaders, a wide-ranging information and public-awareness campaign to put an end to slavery-like practices. The State party should ensure that the perpetrators of such practices, which are already prohibited by law, are systematically prosecuted in the courts, including in cases where they have seized the property of deceased former slaves.

...

350. The Committee notes that no case of racial discrimination has been brought before the national courts and is concerned that victims' opportunities to obtain a remedy are inadequate. It recalls that the fact that victims of racial discrimination do not complain to a court is not necessarily a positive indicator, and can be the result of, *inter alia*, the limited resources available to victims, their lack of awareness of their rights, their lack of confidence in the police and the judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

The Committee recommends, in particular, that the State party conduct an independent and impartial inquiry when allegations of discrimination and slavery-like practices are brought to its attention. The State party should inform the victims of all remedies

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available to them, facilitate their access to justice, guarantee their right to just and adequate reparation, and publicize the relevant laws.

- Portugal, CERD, A/59/18 (2004) 66 at paras. 364, 366, 367 and 372.

364. The Committee...notes with satisfaction the prohibition, as a result of the fourth revision of the Constitution, of racist organizations (organizations adopting a fascist ideology having already been banned).

...

366. While noting the efforts undertaken by the State party to counter racially motivated violence and discrimination, the Committee continues to be concerned that racially motivated acts and incitement to hatred continue to occur and that intolerance and *de facto* discrimination, in particular towards ethnic minorities, persist. Furthermore, the Committee is concerned about the activities of the National Renovation Party, which targets immigrants in its manifestos and campaigns.

The Committee recommends that the Government pursue and intensify its efforts to eradicate all incitement to, and acts of, racial discrimination. In this respect, in light of its general recommendation XXX, the Committee recommends that the State party introduce in its criminal law a provision to the effect that committing an offence with racist motivation or aim constitutes an aggravating circumstance...

367. The Committee expresses concern about allegations it has received of instances of police misconduct towards ethnic minorities or persons of non-Portuguese origin, including excessive use of force, ill-treatment and violence.

The Committee recommends that the State party investigate thoroughly, impartially and effectively all allegations of ill-treatment, violence or excessive use of force by police officers, bring those responsible to justice and provide adequate remedies and compensation to the victims. Furthermore, in light of its general recommendation XIII, the Committee recommends that the State party continue to provide intensive training to law enforcement officials so as to ensure that in the performance of their duties they respect and protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour, descent, or national or ethnic origin.

...

372. The Committee is concerned about the non-suspensive effect of appeal in the admissibility phase of the asylum procedure, which may result in creating an irreversible situation, even if the decision of the administrative authorities were to be overturned on appeal.

The Committee urges the State party to guarantee respect for the legal safeguards for

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asylum-seekers and to ensure that its asylum law and procedures conform to its international obligations in this field.

- Slovakia, CERD, A/59/18 (2004) 70 at paras. 381, 382 and 384.

381. The Committee...welcomes:

(a) The amendment to article 127 of the Constitution, introducing a constitutional complaint procedure;

(b) The entry into force of the Anti-Discrimination Law on 1 July 2004;

(c) Act No. 253/2001 and Act No. 421/2004, amending the Criminal Code by, respectively, adding membership of an ethnic group to the elements of racially motivated crimes and criminalizing offences committed through the Internet;

(d) The numerous activities undertaken by the Government Plenipotentiary for Roma minority affairs in promoting and coordinating programmes and projects aimed at achieving equal status for citizens belonging to the Roma community;

382. While the Committee notes with appreciation the continuous efforts undertaken to combat racial discrimination and related violence, including the setting up of a commission to deal with racially motivated violence and of the Racism and Xenophobia Monitoring Centre, it remains concerned about the occurrence of racially motivated crimes and incidents in the country.

The Committee encourages the State party to continue monitoring all tendencies that may give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee also recommends that the State party intensify its efforts to ensure to everyone within its jurisdiction effective protection against any act of racial discrimination, as well as the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. In this respect, the State party should ensure that victims of racist crimes are afforded wider access to free legal assistance.

...

384. While the Committee notes with satisfaction the efforts of the State party in respect of the training of law enforcement officials, it expresses concern about allegations of discriminatory behaviour by the police towards members of minority groups, in particular Roma, including acts of ill-treatment and violence.

The Committee recommends that the State party intensify its action to halt this phenomenon and set up an independent monitoring mechanism to carry out investigations

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into allegations of police misconduct.

- Saint Lucia, CERD, A/59/18 (2004) 86 at para. 452.

452. The Committee is concerned by reports of the alleged inclusion in certain school textbooks of racist passages concerning the Bethechilokono people.

It urges the State party to delete all racist content from school textbooks, to take measures to punish those who make such references, to provide education that will eliminate racial prejudices and to promote understanding and tolerance among different racial and ethnic groups.

- Australia, CERD, A/60/18 (2005) 13 at paras. 31 and 35.

31. The Committee is concerned about the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC), the main policymaking body in Aboriginal affairs consisting of elected indigenous representatives. It is concerned that the establishment of a board of appointed experts to advise the Government on indigenous peoples' issues, as well as the transfer of most programmes previously provided by the ATSIC and the Aboriginal and Torres Strait Islander Service to government departments, will reduce the participation of indigenous peoples in decision-making and thus alter the State party's capacity to address the full range of issues relating to indigenous peoples (arts. 2 and 5).

The Committee recommends that the State party take decisions directly relating to the rights and interests of indigenous peoples with their informed consent, as stated in its general recommendation XXIII. The Committee recommends that the State party reconsider the withdrawal of existing guarantees for the effective representative participation of indigenous peoples in the conduct of public affairs as well as in decision- and policymaking relating to their rights and interests.

...

35. The Committee notes with concern that it has proved difficult for complainants, under the Racial Discrimination Act, to establish racial discrimination in the absence of direct evidence, and that no cases of racial discrimination, as distinct from racial hatred, have been successfully litigated in the Federal courts since 2001 (arts. 4 and 6).

The Committee, having taken note of the explanations provided by the delegation, invites the State party to envisage regulating the burden of proof in civil proceedings involving racial discrimination so that once an alleged victim has established a *prima facie* case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for differential treatment.

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- Azerbaijan, CERD, A/60/18 (2005) 18 at paras. 59 and 63.

59. While welcoming the information provided by the delegation on counter-trafficking measures taken by the State party, including the adoption, in 2004, of the National Plan of Action to combat trafficking in human beings and the establishment within the police service of a department to assist victims of trafficking, the Committee is concerned that human trafficking, including of foreign women, men and children, remains a serious problem in the State party, which is a country of origin and a transit point (art. 5).

The Committee recommends that the State party...undertake necessary legislative and policy measures to prevent and combat trafficking. The Committee urges the State party to provide support and assistance to victims, wherever possible in their own language. The Committee also recommends to the State party that it continue to make determined efforts to prosecute the perpetrators, and underlines the paramount importance of prompt and impartial investigations.

...

63. The Committee notes with concern the State party's explanation that despite the legislative provisions providing for the right to effective protection and remedies, no cases invoking the relevant provisions of the Criminal Code concerning racial discrimination have been brought before the courts (art. 6).

...The Committee reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be largely an indication of the absence of relevant specific legislation, a lack of awareness of the availability of legal remedies, or insufficient will by the authorities to prosecute. It is therefore essential to provide for the relevant provisions in national legislation and to inform the public of the availability of all legal remedies in the field of racial discrimination.

- Bahrain, CERD, A/60/18 (2005) 22 at paras. 79, 81 and 82.

79. The Committee expresses its concern over the representations made by the State party that there is no racial discrimination in Bahrain.

The Committee, considering that no country is free from racial discrimination, reminds the States party that it is required under the Convention to take legislative, judicial, administrative and other measures to give effect to its provisions, even in the apparent absence of racial discrimination.

...

81. The Committee notes that the Basic Law and royal decrees, regulations and codes adopted by the State party merely state the general principle of non-discrimination, which

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is not a sufficient response to the requirements of the Convention.

The Committee recommends that the State party incorporate in its domestic law a definition of racial discrimination that includes the elements set forth in article 1 of the Convention.

82. The Committee takes note of the abolition of the Human Rights Committee which was designed to provide advice to the Head of State and to the executive authorities on a wide range of human rights issues, including those matters relating specifically to the Convention. Furthermore, the Committee regrets that there is no national human rights institution in Bahrain.

The Committee recommends to the State party that it consider the establishment of a national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).

- France, CERD, A/60/18 (2005) 26 at paras. 113-116.

113. While the Committee views as encouraging the efforts being made by the State party to create awareness among members of the security forces and other public officials of efforts to combat discrimination, it is concerned at allegations of persistent discriminatory behaviour towards the members of certain ethnic groups on the part of such personnel.

The Committee recommends to the State party that it should take the necessary preventive measures to halt racist incidents involving members of the security forces. It should also ensure that impartial investigations are carried out into all these complaints, and that any punishments imposed are proportionate to the gravity of the acts committed.

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

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

115. While the Committee notes the State party's efforts to transpose into domestic law European Council directive 2000/43/CE of 29 June 2000, implementing the principle of equal treatment between persons irrespective of their racial or ethnic origin, it is

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concerned at the fact that the concept of indirect discrimination is applied only in matters of employment and housing.

The Committee recommends to the State party that it should take all necessary legislative steps to ensure the general application of the concept of indirect discrimination.

116. The Committee is concerned that for some local population groups in its overseas communities, the fact that they do not have a full command of French constitutes an obstacle to their enjoyment of their rights, particularly the right to access to justice.

In order to enable all those under the jurisdiction of the State party in its overseas communities to exercise their rights fully, the Committee recommends to the State party that it should take all appropriate steps to ensure that local population groups in overseas communities who do not have a command of French benefit from the services of translators/interpreters, especially in their contacts with the system of justice.

- Ireland, CERD, A/60/18 (2005) 30 at paras. 135, 136 and 141.

135. While noting the continuous efforts undertaken by the State party to combat racial discrimination and related intolerance, the Committee remains concerned that racist and xenophobic incidents and discriminatory attitudes towards ethnic minorities are still encountered in the country (art. 2).

The Committee encourages the State party to continue to combat prejudice and xenophobic stereotyping, especially in the media, and fight prejudice and discriminatory attitudes. In this context, the Committee recommends that the State party introduce in its criminal law a provision that makes committing an offence with a racist motivation or aim an aggravating circumstance allowing for a more severe punishment.

136. While noting the existence, in the area of the application of the Convention, of a diversified NGO community in Ireland and welcoming in particular the establishment by the State party of several independent institutions and judicial bodies in the field of human rights and non-discrimination, as referred to in paragraph 4 above, the Committee wishes to underscore the importance of providing adequate resources to these institutions, in order to enable them to efficiently and effectively exercise their duties and functions (art. 2).

The Committee recommends that the State party provide the newly established institutions in the field of human rights and non-discrimination with adequate funding and resources to enable them to exercise the full range of their statutory functions, and also support the NGO community.

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...

141. While welcoming the efforts of the State party with regard to the human rights training of the national police force, the establishment of a Garda Racial and Intercultural Office and the appointment of Garda Ethnic Liaison Officers, the Committee expresses concern about allegations of discriminatory behaviour by the police towards members of minority groups and regrets that data on complaints of racial discrimination against the police have not been provided in the report (arts. 5 (b) and 6).

The Committee...recommends that the State party intensify its sensitization efforts among law enforcement officials, including the setting up of an effective monitoring mechanism to carry out investigations into allegations of racially motivated police misconduct.

- Lao People's Democratic Republic, CERD, A/60/18 (2005) 35 at paras. 163 and 175.

163. The Committee notes with concern that the Convention is not incorporated in domestic legislation and that the question of its rank in the internal legal order has not been settled (art. 2).

The Committee invites the State party to take the necessary steps to ensure the effective application of the Convention in domestic law.

...

175. The Committee notes the statement by the State party that there have been no complaints or judicial decisions relating to racial discrimination (art. 6).

The Committee calls upon the State party to investigate this situation in order to determine whether it is due to the absence of legal remedies for combating racial discrimination, an incomplete understanding by victims of their rights, the fear of reprisals, a lack of confidence in the police and justice officials, or a lack of attention or awareness on the part of these authorities in matters involving racial discrimination.

- Luxembourg, CERD, A/60/18 (2005) 40 at paras. 186, 191 and 196.

186. The Committee welcomes the Act of 19 July 1997, which supplements the Criminal Code by making racism a more serious offence and criminalizing revisionism and other acts based on discrimination.

...

191. The Committee commends the establishment of an Advisory Commission on Human Rights, a Complaints Office within the Permanent Special Commission against Racial Discrimination, advisory commissions for foreigners in the communes, and the appointment of an ombudsman.

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...

196. The Committee notes with satisfaction the efforts made by the State party to combat offences motivated by racial hatred. It also welcomes the bill reversing the burden of proof in civil cases in favour of victims of racial discrimination. However, it notes that prosecutions in this area have been few in number.

The Committee encourages the State party to ensure that prosecutors and magistrates do prosecute racist offences under the relevant criminal laws, and apply the requisite criminal penalties. It also suggests that racist motives should be defined as a general aggravating circumstance for offences, and that derogations to the ban on discrimination such as those currently allowed under article 457-5 of the Criminal Code should be limited...

- Barbados, CERD, A/60/18 (2005) 43 at para. 217.

217. The Committee notes with concern that, due to its general character, paragraph 1 of the reservation by the State party affects the application of a number of provisions of the Convention, in particular articles 2, 4, 5 and 6. Furthermore, paragraph 2 of the reservation restricts the interpretation of a key provision for the effective application of the Convention, namely article 4.

The Committee recommends that the State party consider withdrawing its reservation and enact legislation to give full effect to article 4 of the Convention, as well as to provide for effective remedies according to article 6.

- Georgia, CERD, A/60/18 (2005) 46 at paras. 244 and 248-250.

244. The Committee regrets the lack of information in the State party report on the fundamental rights of non-citizens temporarily or permanently residing in Georgia, regarding the effective enjoyment, without discrimination, of the rights mentioned in article 5 of the Convention (art. 5).

Drawing the attention of the State party to its general recommendation XXX on discrimination against non-citizens, the Committee recommends that the State party ensure the effective enjoyment, without discrimination, of the rights mentioned in article 5 of the Convention, in particular their access to justice and right to health.

...

248. The Committee is concerned by allegations of arbitrary arrests and detention, excessive use of force by law enforcement officials, and ill-treatment in police custody of members of minority groups and non-citizens, and about the lack of investigation of those cases (arts. 5 and 6).

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The Committee recommends that the State party take appropriate measures to eradicate all forms of ill-treatment by law enforcement officials and ensure prompt, thorough, independent and impartial investigations into all allegations of ill-treatment, especially of members of ethnic groups and non-citizens; perpetrators should be prosecuted and punished, and victims granted compensation.

249. While noting the existence of an Ombudsman, the Committee regrets the insufficiency of detailed information regarding the independence, competencies and effectiveness of this institution (art. 6).

The Committee...encourages the State party to strengthen this institution and provide it with adequate resources so as to allow it to function as an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

250. While noting with appreciation that the Convention may be invoked directly before the national courts, the Committee notes the lack of information on complaints of racial discrimination, the absence of court cases regarding racial discrimination in the State party and the need for further dissemination of the Convention amongst State authorities (arts. 6 and 7).

The Committee recommends that the State party ensure that the lack of court cases on racial discrimination is not the result of victims' lack of awareness of their rights or limited financial means, individuals' lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination. The Committee urges that the State party ensure that appropriate provisions are available in national legislation regarding effective protection and remedies against violation of the Convention and disseminate to the public information on the legal remedies available against those violations as widely as possible. Further, the Committee also recommends that the State party take measures to sensitize police and judicial officers about the Convention.

- Iceland, CERD, A/60/18 (2005) 51 at paras. 260-262, 264 and 270.

260. The Committee welcomes the current establishment of the Committee for Refugees and Asylum-Seekers and the Icelandic Immigration Council, to be composed of representatives of relevant ministries and one immigrant representative and responsible for making recommendations on immigration policy to the Government and for coordinating the provision of services and information to immigrants.

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261. The Committee notes with appreciation that the Supreme Court of Iceland, in a judgement dated April 2002, confirmed the conviction of an individual under article 233 (a) of the General Penal Code for having publicly assaulted a group of people on account of their nationality, colour and race.

262. The Committee welcomes the establishment in 2001 of an office of the Reykjavik police functioning as a link between the police and persons of foreign origin which, *inter alia*, refers complaints made by foreigners to the competent authorities.

...

264. While recognizing that there are no serious social conflicts within Icelandic society, the Committee nevertheless considers that the State party should adopt a more proactive approach in preventing racial discrimination or related intolerance (art. 2).

The Committee recalls that the notion of prevention is inherent in many provisions of the Convention and encourages the State party to take direct measures to prevent racial discrimination in all spheres of life and, to that effect, consider the possibility of adopting comprehensive anti-discrimination legislation providing, *inter alia*, for effective remedies against racial discrimination in civil and administrative proceedings.

...

270. The Committee notes with concern that applicants whose asylum applications have been rejected or who are being expelled by the Directorate of Immigration can only appeal that decision to the Minister of Justice as the supervisory authority, whose decision is subject only to a limited court review on procedure rather than substance (art. 6).

The Committee recommends that the State party consider introducing a full review by an independent judicial body of decisions of the Directorate of Immigration and/or the Minister of Justice concerning the rejection of asylum applications or expulsion of asylum-seekers.

- Nigeria, CERD, A/60/18 (2005) 54 at paras. 283 and 297.

283. The Committee welcomes the establishment of human rights desks in police stations to deal with complaints relating to human rights violations committed by members of the police force.

...

297. While welcoming the extensive counter-trafficking measures taken by the State party, including the establishment in 2003 of the National Agency for Prohibition of Trafficking in Persons and the adoption in 2003 of the Anti-Human Trafficking Law, the Committee remains concerned that human trafficking, including trafficking of foreign women, men and children, remains a serious problem in the State party (art. 5).

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The Committee recommends that the State party...continue to undertake necessary legislative and policy measures to prevent and combat trafficking. The Committee urges the State party to provide support and assistance to victims, wherever possible in their own language. While underlining the paramount importance of prompt and impartial investigations, the Committee recommends to the State party that it continue to make determined efforts to prosecute the perpetrators.

- Turkmenistan, CERD, A/60/18 (2005) 61 at para. 327.

327. The Committee notes that, since independence, no case of racial discrimination has been referred to the courts. According to some information, members of national and ethnic minorities who suffer racial discrimination do not complain to courts because they fear reprisals and lack confidence in the police and the judicial authorities, and because of the authorities' lack of impartiality and of sensitivity to cases of racial discrimination (art. 6).

The Committee recommends to the State party that it inform victims of their rights, including remedies available to them, facilitate their access to justice, guarantee their right to just and adequate reparation, and publicize the relevant laws. The State party should ensure that its competent authorities proceed to a prompt and impartial investigation on complaints of racial discrimination, or whenever there are reasonable grounds to believe that racial discrimination has been committed on its territory. Judges and lawyers, as well as law enforcement personnel, should be trained accordingly.

- United Republic of Tanzania, CERD, A/60/18 (2005) 67 at paras. 342, 346, 353, 354, 356 and 357.

342. The Committee welcomes the establishment of the Commission for Human Rights and Good Governance with, *inter alia*, competence to conduct inquiries into complaints of human rights violations and to disseminate information on human rights.

...

346. Bearing in mind that the State party has a dualist legal system, the Committee remains concerned about the fact that the Convention has not been incorporated in domestic law and that the position as to its direct applicability in the State party is unclear (art. 2).

The Committee strongly recommends that the State party envisage incorporating the Convention into its domestic legal order.

...

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353. The Committee is concerned about allegations of arbitrary arrests and detention, excessive use of force and ill-treatment of refugees, in particular women, by law enforcement officials, and about the lack of investigation of those cases (arts. 5 and 6).

The Committee recommends that the State party take appropriate measures to eradicate all forms of ill-treatment by law enforcement officials of refugees, in particular women, and ensure prompt, thorough, independent and impartial investigations into all allegations of ill-treatment of refugees. The Committee further recommends that the persons responsible for the ill-treatment be prosecuted and punished, and victims granted compensation.

354. While noting that a reform of the legal sector has been undertaken and that the issue of access to justice is being considered, the Committee remains concerned about the difficulties of access to justice, especially for the poor and members of minority groups (arts. 5 and 6).

The Committee recommends that the State party take the necessary measures to establish mechanisms to improve the capacity and efficiency of the judicial system, so as to ensure access to justice to all without discrimination, and to establish mechanisms to provide legal aid to all members of vulnerable groups.

...

356. The Committee regrets the insufficiency of detailed information regarding the independence, competencies and effectiveness of the Commission for Human Rights and Good Governance. The Committee notes that, since the establishment of the Ombudsman in 1966, no complaints about racial discrimination have been brought to this institution (art. 6).

The Committee recommends...that the State party widely disseminate information on the existence of this institution, especially on its capacity to investigate violations of human rights.

357. The Committee notes the lack of information on complaints of racial discrimination and the absence of court cases regarding racial discrimination (arts. 6 and 7).

The Committee recalls that the absence of cases may be due to the victims' lack of information about the existing remedies, and therefore recommends that the State party ensure that appropriate provisions are available in national legislation regarding effective protection and remedies against violation of the Convention and that the public at large is appropriately informed about their rights and the legal remedies available against their violation...

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- Venezuela (Bolivarian Republic of), CERD, A/60/18 (2005) 71 at paras. 372 and 380.

372. The Committee welcomes the fact that article 31 of the Constitution recognizes the right to address petitions to the international human rights treaty bodies, and that in 2003 the State party made the optional declaration provided for in article 14 of the Convention thus responding to a request of the Committee, and hopes that the public is being appropriately informed about the possibilities and procedures under the mentioned article of the Convention.

...

380. The Committee notes with great concern that between 1995 and 2003, 61 persons, most of whom were indigenous or Afro-descendants, were murdered in land conflicts, presumably by private armed groups (*sicarios*), and that this problem has worsened since 2001.

The Committee requests the State party to take efficient and urgent measures to end this violence, which mainly affects indigenous peoples and Afro-descendants, including the establishment of an independent monitoring mechanism to investigate such incidents in order to ensure that they do not go unpunished.

- Zambia, CERD, A/60/18 (2005) 75 at paras. 399, 404, 407 and 408.

399. The Committee is concerned in particular that, under article 11 of the Constitution, the right of everyone not to be discriminated against is applicable to a limited list of mainly civil and political rights, and that the Directive Principles of State Policy, also included in the Constitution, do not contain any non-discrimination clause with regard to economic, social and cultural rights. It further regrets the lack of precise information regarding legislation prohibiting racial discrimination in the enjoyment of civil, political, economic, social and cultural rights, and its implementation in practice (arts. 1, 2 and 5).

The Committee recommends to the State party that it guarantee the right of everyone not to be discriminated against in the enjoyment of civil, political, economic, social, and cultural rights...

...

404. The Committee reiterates its concern that the provisions of article 4 (b) of the Convention have not yet been fully incorporated in domestic law.

The Committee recommends that the State party recognize participation in organizations promoting and inciting racial discrimination as a punishable offence.

...

407. While welcoming the efforts pursued by the State party in the field of human

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rights education, the Committee remains concerned that most people living in Zambia are not aware of their rights and thus find it difficult to seek redress if their rights are violated.

The Committee further recalls that the fact that victims of racial discrimination rarely report on such matters to the appropriate authorities can also be the result of, *inter alia*, the limited resources available to victims, their lack of confidence in the police and the judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination (art. 6).

The State party should strengthen its efforts to raise the awareness of people on their rights, inform the victims of all remedies available to them, facilitate their access to justice, and train judges, lawyers, and law enforcement personnel accordingly.

408. The Committee notes with concern the difficulties encountered by the Zambian Human Rights Commission as described in the report, in particular inadequate staffing, inadequate means of transportation, centralization, and slow response from concerned State authorities to the Commission's requests for action. It notes with interest, however, the State party's plan to decentralize the Commission's offices and the information that the new draft Constitution contains provisions enhancing the effectiveness of the Commission (art. 6).

The Committee recommends that the State party increase its efforts to enhance the effectiveness of the Human Rights Commission, in particular through adequate budget allocations. The Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134) should be taken into consideration in the elaboration of the constitutional reform relating to the Human Rights Commission...

ICCPR

- Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at paras. 74(8), 74(12), 74(13) and 74(15).

(8) The Committee is concerned that in the case of a clash between the Covenant rights and domestic laws the latter might prevail. Neither through examination of the report of the State party nor during the discussion with the delegation could the Committee obtain a clear understanding of how potential conflicts between Covenant rights and domestic laws are resolved.

The State party must ensure the effective implementation of all Covenant rights, in accordance with article 2 of the Covenant and including through independent and impartial courts of law operating in compliance with article 14.

...

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(12) The Committee notes with concern that the Office of the Ombudsman is seriously under-resourced.

The State party should provide adequate human and material resources to the Office of the Ombudsman to enable it to carry out its work effectively.

(13) The Committee is concerned about allegations of police harassment, particularly of the Roma minority and aliens.

The State party should take effective measures to eradicate all forms of police harassment, and set up an independent authority to investigate complaints against the police. It should take steps against those held responsible for such acts of harassment.

...

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

The State party should institute a more effective system of monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should also ensure that all allegations of torture are effectively investigated by an independent authority, that the persons responsible are prosecuted, and that the victims are given adequate compensation. Free access to legal counsel and doctors should be guaranteed in practice, immediately after arrest and during all stages of detention. The arrested person should have an opportunity immediately to inform a family member about the arrest and the place of detention. All allegations of statements of detainees being obtained through coercion must lead to an investigation and such statements must never be used as evidence, except as evidence of torture.

See also:

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at para. 78(8).
- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(3), 75(4), 75(7)-75(9) and 75(12).

(3) The Committee welcomes the entry into force of the Human Rights Act 1998. The Committee considers the resulting enhanced judicial scrutiny of executive and legislative action, and the legal duty placed upon the authorities to act consistently with rights which are similar in substance to many Covenant rights, to be an important step towards ensuring compliance with, and remedies for breaches of, those Covenant rights.

(4) The Committee welcomes the conclusion of the Belfast Agreement in April 1998 and the changes adopted in Northern Ireland, based upon the agreement, as the State

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party and other signatories have sought to move away from the extraordinary measures in place in that jurisdiction towards higher promotion of respect for human rights and fundamental freedoms. In particular, the Committee commends the establishment of an independent Police Ombudsman with jurisdiction over complaints in regard to all uses of force on the part of the police and with significant powers of investigation and enforcement, as well as the creation of a Human Rights Commission in Northern Ireland.

Consonant with these developments, the Committee also welcomes the State party's recent withdrawal of its notice of derogation relating to article 9, paragraph 3, of the Covenant.

...

(7) The Committee regrets that the State party, while having incorporated many Covenant rights into its domestic legal order through the Human Rights Act 1998, has failed to accord the same level of protection to other Covenant rights, including the provisions of articles 26 and 27.

The State party should consider, as a matter of priority, how persons subject to its jurisdiction may be guaranteed effective and consistent protection of the full range of Covenant rights. It should consider, as a priority, accession to the first Optional Protocol.

(8) The Committee is deeply disturbed that, a considerable time after murders of persons (including human rights defenders) in Northern Ireland have occurred, a significant number of such instances have yet to receive fully independent and comprehensive investigations, and the persons responsible to be prosecuted. This phenomenon is doubly troubling where persistent allegations of involvement and collusion by members of the State party's security forces, including the Force Research Unit, remain unresolved.

The State party should implement, as a matter of particular urgency given the passage of time, the measures required to ensure a full, transparent and credible accounting of the circumstances surrounding violations of the right to life in Northern Ireland in these and other cases.

(9) Although the Committee appreciates the establishment of specialist bodies to deal with various specific areas of discrimination, such as the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission, the Committee considers that the establishment of a national human rights commission with comprehensive jurisdiction to receive complaints of human rights violations would be a valuable addition to the remedies available to persons complaining of such violations, particularly persons for whom recourse to the courts is, as a practical matter, too costly, difficult or impossible.

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The State party should consider the establishment of a national human rights commission to provide and secure effective remedies for alleged violations of all human rights under the Covenant.

...

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

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

- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), ICCPR, A/57/40 vol. I (2002) 36 at para. 75(23).

(23) The Committee is deeply concerned that the protection of Covenant rights in the overseas territories is weaker and more irregular than in the metropolitan area. The Committee regrets that the provisions of the Human Rights Act 1998, which significantly improve the protection of many rights contained in the Covenant, do not extend to the overseas territories (except, to some extent, Pitcairn and St. Helena). The Committee regrets that the Covenant rights are not incorporated in the legislation of the territories, and that its provisions cannot be invoked directly before or applied by the judiciary. The consequences are especially regrettable in those overseas territories (British Virgin Islands, Cayman Islands, St. Helena and Pitcairn) whose Constitutions do not contain chapters on fundamental rights...

The State party should give priority to incorporating Covenant rights in the respective domestic legal orders of the overseas territories.

- Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at paras. 76(3), 76(8) and 76(11).

(3) The Committee welcomes the progress made since the consideration of the State party's initial report in advancing the protection of Covenant rights. It especially notes the adoption of the revised federal Constitution, which came into force in January 2000, which contains a bill of rights.

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...

(8) The Committee is concerned that incidents of racial intolerance have increased. While commending the continuous efforts made by the Federal Commission against Racism to combat anti-Semitism, racism and xenophobia, it notes that the Commission does not have the power to initiate legal action to combat racial incitement and discrimination.

The State party should ensure rigorous enforcement of its laws against racial incitement and discrimination. It should consider broadening the mandate of the Federal Commission against Racism, or creating an independent human rights mechanism with the power to initiate legal action (articles 2 and 20 of the Covenant).

...

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

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

- Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at paras. 77(9), 77(10), 77(17) and 77(25).

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

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

(10) While welcoming the steps taken by the State party to bring its law into compliance with international standards to prevent torture, the Committee is deeply

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concerned at the reported failure to ensure application of such legal provisions and at continuing reports of the use of torture and cruel, inhuman or degrading treatment or punishment. The Committee notes that the delegation could not provide clarifications on the number of investigations and prosecutions in regard to torture, particularly under the new Criminal Code, or on remedies provided to victims and their families, including rehabilitation and compensation (articles 2 and 7 of the Covenant).

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

...

(17) With regard to articles 3, 9 and 26 of the Covenant, the Committee is concerned at the incidence of violence against women, including rape and domestic violence. The Committee takes note with concern that domestic violence is apparently not acknowledged to be a problem. The Committee notes as well that information on these matters is not systematically maintained, that women have a low level of awareness of their rights and the remedies available to them, and that complaints are not being adequately dealt with.

The State party should take effective measures to combat violence against women, including marital rape. The State party should also organize an effective information campaign to address all forms of violence against women...

...

(25) The Committee is concerned at the apparently low level of awareness amongst the public of the provisions of the Covenant (article 2 of the Covenant).

The State party should widely publicize the provisions of the Covenant and the availability of the complaint mechanism to individuals as provided upon the entry into force in the State party of the Optional Protocol.

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at paras. 78(6), 78(9), 78(16) and 78(17).

6. The Committee expresses satisfaction at the creation of a Constitutional Court, but it remains concerned that current procedures impede access to the Court.

The State party should reform the procedures for access to the Constitutional Court in order to guarantee full protection of the human rights enshrined in the Covenant.

...

(9) The Committee is concerned at the length of the period (up to 72 hours) that

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

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

...

(16) Although the Committee welcomes the appointment of an Ombudsman, it notes with concern that her functions are not clearly defined and her power to implement recommendations is limited.

The State party should clearly define the functions of the Ombudsman, ensure her independence from the executive, provide for a direct reporting relationship with the legislature, and give her authority in relation to other State agencies in accordance with article 2 of the Covenant.

(17) The Committee notes with deep concern the increase in the number of acts of religious intolerance and harassment of religious minorities of various creeds, particularly Jehovah's Witnesses.

The State party should take the necessary measures to ensure the right to freedom of thought, conscience and religion as provided in article 18 of the Covenant. It should also:

- (a) Investigate and prosecute documented cases of harassment against religious minorities;
- (b) Prosecute those responsible for such offences;
- (c) Conduct a public awareness campaign on religious tolerance and prevent, through education, intolerance and discrimination based on religion or belief.

- Sweden, ICCPR, A/57/40 vol. I (2002) 57 at paras. 79(6) and 79(10).

(6) The Committee, while commending the way in which the courts refer to the Covenant in interpreting rights, regrets that the Covenant as such may not be directly invoked before Swedish courts or before the administrative authorities. In this connection, it notes that in certain areas (arts. 25, 26 and 27) the Covenant gives greater protection than is accorded under the European Convention on Human Rights, which has

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been incorporated in Swedish domestic law.

The State party should ensure that its domestic legislation gives full effect to the rights embodied in the Covenant and that remedies are available for the exercise of those rights.

...

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

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

- Hungary, ICCPR, A/57/40 vol. I (2002) 60 at paras. 80(6), 80(10), 80(12) and 80(14).

(6) While the Covenant is incorporated into the domestic legal order and is directly applicable before the Hungarian courts, not all Covenant rights are ensured in practice. The Committee is also concerned that, notwithstanding article 26 of the Covenant, there is no comprehensive legislative provision against discrimination.

The State party is requested to take steps to enact comprehensive anti-discrimination legislation (article 26 of the Covenant).

...

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

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

...

(12) The Committee is concerned at the high number of reports of ill-treatment by law

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enforcement agencies, the limited number of investigations carried out by the State party in such cases, and the very limited number of convictions in those cases which are investigated.

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

...

(14) The Committee notes with concern discriminatory practices with respect to the registration of certain religious groups in Hungary and the limited protection accorded to the religious rights of asylum-seekers and prisoners. It further notes that the restitution of Church property has not been completed in a timely manner. Finally, it observes that educational programmes concerning religious tolerance and non-discrimination on the basis of religion or conviction are inadequate.

The State party should ensure that religious organizations are treated in a manner that is compatible with the Covenant; it should reinforce the protection of religious rights of asylum-seekers and prisoners; it should complete the process of restitution of Church property without discrimination; and it should undertake educational programmes designed to promote tolerance and the elimination of discrimination on the grounds of religion and conviction (articles 18 and 26 of the Covenant).

- New Zealand, ICCPR, A/57/40 vol. I (2002) 63 at para. 81(8).

(8) Article 2, paragraph 2, of the Covenant requires States parties to take such legislative or other measures which may be necessary to give effect to the rights recognized in the Covenant. In this regard the Committee regrets that certain rights guaranteed under the Covenant are not reflected in the Bill of Rights, and that it has no higher status than ordinary legislation. The Committee notes with concern that it is possible, under the terms of the Bill of Rights, to enact legislation that is incompatible with the provisions of the Covenant and regrets that this appears to have been done in a few cases, thereby depriving victims of any remedy under domestic law.

The State party should take appropriate measures to implement all the Covenant rights in domestic law and to ensure that every victim of a violation of Covenant rights has a remedy in accordance with article 2 of the Covenant.

- Viet Nam, ICCPR, A/57/40 vol. I (2002) 67 at paras. 82(5), 82(6) and 82(11).

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(5) The Committee is concerned about the status under domestic law of the rights provided for in the Covenant, which remains unclear. It is also concerned that certain constitutional provisions would appear to be incompatible with the Covenant and that the Vietnamese Constitution does not enumerate all Covenant rights, nor the extent to which they may be limited and the criteria used. The Committee is concerned that according to Vietnamese law the Covenant rights must be interpreted in a way that may compromise the enjoyment of these rights by all individuals.

The State party should guarantee the effective protection of all rights enshrined in the Covenant and ensure that they are fully respected and enjoyed by all (art. 2).

(6) The Committee is concerned about the statement of the delegation that because persons under the jurisdiction of the State party have recourse to national mechanisms, the State party does not need to accede to the Optional Protocol.

The State party should consider acceding to the Optional Protocol in order to enhance the protection of human rights afforded to persons under its jurisdiction.

...

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

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

- Yemen, ICCPR, A/57/40 vol. I (2002) 72 at paras. 83(4)-83(6) and 83(17).

(4) The Committee regrets the lack of clarity about the question of the juridical value of the Covenant in domestic law and the consequences thereof.

The State party should ensure that its legislation gives full effect to rights acknowledged in the Covenant and that remedies are available for the exercise of those rights.

...

(5) The Committee, while it takes note of the composition and function of the Yemeni

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National Committee for Human Rights, which is a government commission, notes the absence of a human rights commission that is independent of the authorities and the lack of any plans in this connection.

The State party should consider the establishment of an independent institution for the protection of human rights, with a mandate to receive complaints, initiate inquiries and institute proceedings where appropriate with total independence.

...

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

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

...

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

The State party should ensure that all human rights abuses are investigated and should, depending on the findings of the investigations, institute proceedings against the perpetrators of such violations. It should also set up an independent body to investigate such reports.

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at paras. 77(4) and 77(13).

(4) The Committee regrets the lack of clarity surrounding the question of the legal standing of the Covenant in relation to domestic law and the attendant consequences.

The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that effective remedies are available for the exercise of those rights.

...

(13) While noting the creation of institutional machinery and the introduction of measures to punish any violations of human rights by employees of the State, the Committee notes with concern the persistence of torture and cruel, inhuman or degrading

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treatment at the hands of law-enforcement personnel, in particular the security services, whose recourse to such practices appears to display a systematic pattern. It is equally concerned at the general lack of investigations into such practices, punishment of those responsible, and reparation for the victims. It is also concerned at the absence of any independent body to investigate such complaints (articles 6 and 7 of the Covenant).

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

- Togo, ICCPR, A/58/40 vol. I (2002) 36 at paras. 78(7), 78(11)-78(13) and 78(15).

(7) The Committee notes that, notwithstanding the provisions of articles 50 and 140 of the Constitution, the provisions of the Covenant have not been directly invoked in any case before the Constitutional Court or ordinary courts.

The State party should provide training for judges, lawyers and court officers, including the persons already serving in those capacities, concerning the content of the Covenant and the other international human rights instruments that Togo has ratified.

...

(11) The Committee expresses its concern at the consistent information that law enforcement personnel make excessive use of force in student demonstrations and various gatherings organized by the opposition. The Committee is surprised at the State party's reply in this regard, to the effect that the security forces never make excessive use of force and that the demonstrators are principally the victims of movements within the crowd. The Committee regrets that the State party has made no mention of any inquiry having been opened following these allegations.

The State party should open impartial inquiries following any allegation relating to the excessive use of force by the security forces. In particular, such inquiries should be carried out into the December 1999 demonstrations by students and teachers, and the demonstrations organized by non-governmental human rights organizations and political parties which were reported to have been violently broken up during 2001 and 2002.

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

...

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

(13) The Committee, taking note of the State party's acknowledgement that arbitrary arrests sometimes take place, is concerned at the many reports of the arbitrary arrest of members of the opposition and civil society, human rights defenders and journalists, in violation of article 9 of the Covenant.

The State party should identify the prisoners who have allegedly been detained for political reasons in Togo, and review their situation. The State party should also ensure that persons who have been arbitrarily arrested are released as soon as possible, and that judicial proceedings are instituted against the perpetrators of such violations.

...

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

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

- Estonia, ICCPR, A/58/40 vol. I (2003) 41 at para. 79(10).

(10) The Committee takes note of the delegation's acknowledgement that legislation on detention of mental health patients is outdated and that steps have been taken to revise it, including the adoption of a draft Patient Rights Act. In this regard, the Committee is concerned at some aspects of the administrative procedure related to the detention of a person for mental health reasons, in particular the patient's right to request termination of detention, and, in the light of the significant number of detention measures that had been terminated after 14 days, the legitimate character of some of these detentions. The Committee considers that a period of 14 days of detention for mental health reasons without any review by a court is incompatible with article 9 of the Covenant.

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The State party should ensure that measures depriving an individual of his or her liberty, including for mental health reasons, comply with article 9 of the Covenant. The Committee recalls the obligation of the State party under article 9, paragraph 4, to enable a person detained for mental health reasons to initiate proceedings in order to review the lawfulness of his/her detention...

- Mali, ICCPR, A/58/40 vol. I (2003) 47 at paras. 81(7), 81(8), 81(10), 81(14), 81(18) and 81(19).

(7) The Committee notes that under the Constitution treaties take precedence over legislation and that, according to information supplied by the delegation, the Covenant can be invoked directly before national courts. It regrets, however, that specific instances in which the Covenant has been directly invoked, or in which the Constitutional Court has considered the compatibility of national legislation with the Covenant, have not been brought to its attention.

The State party must ensure that judges, lawyers and court officers, including those already in service, are trained in the content of the Covenant and the other international human rights instruments ratified by Mali...

(8) The Committee notes with concern that the National Advisory Commission on Human Rights, established in 1996, has yet to meet.

The State party should take appropriate measures to allow the National Advisory Commission on Human Rights to function, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), as set forth in General Assembly resolution 48/134.

...

(10) While welcoming the establishment of a Ministry for the Advancement of Women, Children and the Family, the Committee expresses its grave concern at the continued existence in Mali of legislation which discriminates against women, in particular with regard to marriage, divorce, and inheritance and succession, and of discriminatory customary rules relating to property ownership. The Committee, while appreciating that adoption of a Family Code requires wide-ranging consultations, notes with concern that the proposed reform, ongoing since 1998, has not yet concluded. The Committee is also concerned about information that the practice of the levirate, a practice whereby a widow is inherited by the deceased husband's brother or cousin, is said to persist in Mali (articles 3, 16 and 23 of the Covenant).

(a) The State party should expedite the adoption of the Family Code; the Committee recommends that the Code comply with the provisions of articles 3, 23 and 26 of the

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Covenant, in particular with regard to the respective rights of spouses in the context of marriage and divorce. In this connection, the Committee draws the attention of Mali to its general comment No. 28 on equality of rights between men and women, in particular with regard to polygamy, a practice that violates the dignity of women and constitutes unacceptable discrimination against women. The State party should abolish polygamy once and for all.

(b) Particular attention should be paid to the question of early marriage by girls, a widespread phenomenon. The State party should raise the minimum legal age for marriage by girls to the same age as for boys.

(c) The State party should establish a succession regime that does not discriminate against women: equality of heirs without discrimination on the basis of sex should be guaranteed, and the State should ensure better guarantees of the rights of widows and that upon succession there is a fair distribution of assets.

(d) The State party should abolish the levirate once and for all and apply appropriate penalties against those engaging in the practice, and take appropriate measures to protect and support women, especially widows.

...

(14) While noting the considerable efforts made by the State party, the Committee remains concerned at the high maternal and infant mortality rate in Mali, due in particular to the relative inaccessibility of health and family planning services, the poor quality of health care provided, the low educational level and the practice of clandestine abortions (article 6 of the Covenant).

So as to guarantee the right to life, the State party should strengthen its efforts in that regard, in particular in ensuring the accessibility of health services, including emergency obstetric care. The State party should ensure that its health workers receive adequate training. It should help women avoid unwanted pregnancies, including by strengthening its family planning and sex education programmes, and ensure that they are not forced to undergo clandestine abortions, which endanger their lives. In particular, attention should be given to the effect on women's health of the restrictive abortion law.

...

(18) While welcoming the various programmes adopted by the State party, the Committee is very concerned about the situation of migrant girls leaving the countryside for the towns to work as domestic servants and who, according to some reports, work an average of 16 hours a day for very low or non-existent wages, are often the victims of rape and ill-treatment, and may be forced into prostitution (article 8).

The State party should intensify its efforts to punish those responsible for the exploitation of these migrant girls. The State party should adopt and develop appropriate complaint and protection mechanisms...

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(19) The Committee notes that, under Malian law, police custody may be extended beyond 48 hours and that such extensions are authorized by the public prosecutor.

The State party should: (a) supplement its legislation to conform to the provisions of article 9, paragraph 4, of the Covenant, which requires that a court must decide without delay on the lawfulness of detention in custody; and (b) supervise the conditions of such custody, in accordance with article 9 of the Covenant...

- Slovakia, ICCPR, A/58/40 vol. I (2003) 52 at paras. 82(6)-82(8), 82(11) and 82(17).

(6) The Committee welcomes the explanation provided in the report and confirmed by the delegation that the State party interprets succession to mean the continuity of its obligations under the Covenant, including in relation to any cases submitted under the Optional Protocol, irrespective of the date of deposition of the instrument of succession by the State party following the dissolution of Czechoslovakia and the creation of the Slovak Republic.

(7) While welcoming the creation of the institution of Ombudsman and the election of an Ombudsman, the Committee regrets that it has received insufficient information on the nature of the complaints submitted to and processed by the Ombudsman to enable it to assess the scope and effectiveness of the activities of this new institution.

The State party should ensure the effectiveness of the Ombudsman as an independent monitoring mechanism for the implementation of Covenant rights, particularly in the area of discrimination...

(8) The Committee observes that the proposed draft equal treatment law has not been adopted. While noting the information provided by the delegation that existing anti-discrimination laws enable possible instances of discrimination to be addressed, the Committee regrets that the delegation did not provide any statistics on the number of complaints submitted, the grounds for the complaints, as well as the outcomes.

The State party should continue with further measures to ensure the effectiveness of legislation against discrimination. It should also adopt further legislation in fields not covered by the current legislation in order to ensure full compliance with articles 2, 3 and 26 of the Covenant. The Committee urges the State party to establish adequate monitoring and redress mechanisms which provide ready access to individuals, in particular from vulnerable groups.

...

(11) The Committee is concerned about the persistent allegations of police harassment and ill-treatment during police investigations, particularly of the Roma minority, which

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the delegation described as resulting from psychological failure to handle the situation rather than to problems with legislation or police incompetence (arts. 2, 7, 9, 26).

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

...

(17) The Committee reiterates the concern expressed in its previous concluding observations about reports that Roma are often victims of racist attacks, without receiving adequate protection from law enforcement officers. It further notes continued reports of statements by prominent politicians reflecting discriminatory attitudes *vis-à-vis* the Roma (arts. 2, 20, 26).

The State party should take all necessary measures to combat racial violence and incitement, provide proper protection to Roma and establish adequate mechanisms to receive complaints from victims and ensure adequate investigation and prosecution of cases of racial violence and incitement to racial hatred.

- Portugal, ICCPR, A/58/40 vol. I (2003) 56 at paras. 83(10), 83(12)-83(14) and 83(16).

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

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

...

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

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

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(13) The Committee expresses concern about reported cases of police failure to register arrests and detentions (art. 9).

The State party should ensure that all arrests and detentions are registered, in particular through the improvement of its supervision system and the training of police officers.

(14) The Committee is concerned that a person may be held in pre-trial detention for a period of 6 to 12 months before charges are brought and that such detention in exceptional cases can last for up to 4 years. It further notes with concern that, in spite of the exceptional character of pre-trial detention, as stated in the Code of Criminal Procedure, almost one third of the persons detained in Portugal are in pre-trial detention (arts. 9 and 14).

The State party should amend its legislation in order to ensure that charges are brought against persons in pre-trial detention and that all persons are tried within a reasonable time. It should ensure that in practice magistrates only order pre-trial detention as a last resort.

...

(16) The Committee notes with concern that detainees subject to solitary confinement as a disciplinary measure may only lodge an appeal if the period of confinement exceeds eight days. The Committee is also concerned that during solitary confinement the daily monitoring of detainees by fully qualified medical staff is not guaranteed (art. 10).

The State party should ensure the right of detainees to an effective remedy, with suspensive effect, against all disciplinary measures of solitary confinement and should guarantee that detainees are monitored daily by fully qualified medical staff during solitary confinement.

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at paras. 84(5)-84(8), 84(10)-84(12), 84(15), 84(16), 84(18) and 84(19).

(5) The Committee applauds the establishment of a Human Rights Division in the National Civil Police (PNC) in June 2000 to provide support for the protection and promotion of human rights during the exercise of police duties. It also welcomes the delegation's statements about the approval in 2001, by Organization Act, of the Police Ethics Board, a watchdog body independent of the National Civil Police, although it regrets that the Board is still being set up.

(6) The Committee reiterates its concern at the General Amnesty (Consolidation of the Peace) Act of 1993 and the application of that Act to serious human rights violations, including those considered and established by the Truth Commission. While it notes the

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position of the State party, which considers that the Act is compatible with the country's Constitution, the Committee considers that the Act infringes the right to an effective remedy set forth in article 2 of the Covenant, since it prevents the investigation and punishment of all those responsible for human rights violations and the granting of compensation to the victims.

The Committee reiterates the recommendation made in its concluding observations adopted on 8 April 1994, that the State party should review the effect of the General Amnesty Act and amend it to make it fully compatible with the Covenant. The State party should respect and guarantee the application of the rights enshrined in the Covenant.

(7) The Committee expresses concern at the fact that the investigations into the killing of Mgr. Oscar Romero, the Archbishop of San Salvador and similar cases have been under the statute of limitations, even though the supposed perpetrators have been identified, without checking whether the decision is compatible with the State party's obligations under international law.

The State party should review its rules on the statute of limitations and bring them fully into line with its obligations under the Covenant so that human rights violations can be investigated and punished.

(8) The Committee is sorry that the delegation did not give a proper answer to the question whether all military and court officials named in the report of the Truth Commission have been suspended from their duties as recommended by the Commission.

The State party is encouraged to follow the recommendations made by the Truth Commission in its report...

...

(10) While it appreciates the investigations mounted into lawyers, judges and prosecutors with fictitious qualifications so as to ensure that, as required by article 2, paragraph 3, of the Covenant, those involved in the administration of justice are professionally competent, the Committee notes that, despite the large number of cases investigated, there have been only two dismissals.

The State party should pursue the investigations in order to ensure that the judicial system is staffed by people of the appropriate professional level.

(11) The Committee is concerned at the conditions under which certain members of the National Civil Police are recruited, since those conditions do not disbar persons who might have committed violations of human rights or humanitarian law from recruitment.

The State party should take action to ensure that there is no one in the National Civil

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Police who has committed any violations of human rights or humanitarian law.

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

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

...

(15) While noting the efforts made by the State party to combat domestic violence, the Committee notes with concern that violence against women persists: this raises questions under article 9 of the Covenant. The Committee is also concerned at the high proportion of women within the National Civil Police [PNC] who have been subjected to violence.

The State party should take steps to ensure compliance with the Domestic Violence Act. The Committee also trusts that the institutional plan to incorporate the gender perspective within PNC will be put into effect.

(16) The Committee expresses concern at the incidents of people being attacked, or even killed, on account of their sexual orientation (art. 9), at the small number of investigations mounted into such illegal acts, and at the current provisions (such as the local "contravention orders") used to discriminate against people on account of their sexual orientation (art. 26).

The State party should provide effective protection against violence and discrimination based on sexual orientation.

...

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

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

(19) The Committee is sorry that the delegation was unable to explain the Legislative Assembly's reasons for not approving the establishment of a national commission of

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inquiry to track down children who disappeared in the conflict (arts. 6, 7 and 24).

The State party is...invited to reconsider the establishment of a national commission on disappeared children and a compensation fund for young people who are found.

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at paras. 85(10)-85(12), 85(14), 85(15), 85(18), 85(20) and 85(23).

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

(11) The Committee has noted the State party's position that the Covenant does not apply beyond its own territory, notably in the West Bank and in Gaza, especially as long as there is a situation of armed conflict in these areas. The Committee reiterates the view, previously spelled out in paragraph 10 of its concluding observations on Israel's initial report (CCPR/C/79/Add.93 of 18 August 1998), that the applicability of the regime of international humanitarian law during an armed conflict does not preclude the application of the Covenant, including article 4 which covers situations of public emergency which threaten the life of the nation. Nor does the applicability of the regime of international humanitarian law preclude accountability of States parties under article 2, paragraph 1, of the Covenant for the actions of their authorities outside their own territories, including in occupied territories. The Committee therefore reiterates that, in the current circumstances, the provisions of the Covenant apply to the benefit of the population of the Occupied Territories, for all conduct by the State party's authorities or agents in those territories that affect the enjoyment of rights enshrined in the Covenant and fall within the ambit of State responsibility of Israel under the principles of public international law.

The State party should reconsider its position...

(12) While welcoming the State party's decision to review the need to maintain the declared state of emergency and to prolong it on a yearly rather than an indefinite basis, the Committee remains concerned about the sweeping nature of measures during the state of emergency that appear to derogate from Covenant provisions other than article 9, derogation from which was notified by the State party upon ratification. In the Committee's opinion, these derogations extend beyond what would be permissible under those provisions of the Covenant which allow for the limitation of rights (e.g. arts. 12, para. 3, 19, para. 3, and 22...). As to measures derogating from article 9 itself, the Committee is concerned about the frequent use of various forms of administrative

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detention, particularly for Palestinians from the Occupied Territories, entailing restrictions on access to counsel and on the disclosure of full reasons for the detention. These features limit the effectiveness of judicial review, thus endangering the protection against torture and other inhuman treatment prohibited under article 7 and derogating from article 9 more extensively than what in the Committee's view is permissible pursuant to article 4. In this regard, the Committee refers to its earlier concluding observations on Israel and to its general comment No. 29.

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

...

(14) The Committee is concerned about the vagueness of definitions in Israeli counter-terrorism legislation and regulations which, although their application is subject to judicial review, appear to run counter to the principle of legality in several aspects owing to the ambiguous wording of the provisions and the use of several evidentiary presumptions to the detriment of the defendant. This has adverse consequences for the rights protected under article 15 of the Covenant, which is non-derogable under article 4, paragraph 2, of the Covenant.

The State party should ensure that measures designed to counter acts of terrorism, whether adopted in connection with Security Council resolution 1373 (2001) or in the context of the ongoing armed conflict, are in full conformity with the Covenant.

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

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

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person suspected of being in the process of committing acts of terror must be exhausted.

...

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

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

...

(20) The Committee is concerned by public pronouncements made by several prominent Israeli personalities in relation to Arabs that may constitute advocacy of racial and religious hatred constituting incitement to discrimination, hostility and violence.

The State party should take the necessary action to investigate, prosecute and punish such acts in order to ensure respect for article 20, paragraph 2, of the Covenant.

...

(23) ...The Committee notes with concern that the percentage of Arab Israelis in the civil service and public sector remains very low and that progress towards improving their participation, especially of Arab Israeli women, has been slow (arts. 3, 25 and 26).

The State party should adopt targeted measures with a view to improving the participation of Arab Israeli women in the public sector and accelerating progress towards equality.

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at paras. 63(8), 63(11) and 63(12).

(8) The Committee is concerned about the lack of appropriate measures to investigate crimes allegedly committed by State security forces and agents, in particular those committed against human rights defenders, journalists and leaders of indigenous peoples, and the lack of measures taken to prosecute and punish the perpetrators. Furthermore, the Committee is concerned at reports of intimidation and threats of retaliation impeding the right to an effective remedy for persons whose rights and freedoms have been violated.

a) The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation.

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...

(11) The Committee expresses concern regarding reported cases of extrajudicial killings, arbitrary detention, harassment, intimidation and abuse, including of detainees, many of whom are women and children, that have neither been investigated nor prosecuted. Such a situation is conducive to perpetration of further violations of human rights and to a culture of impunity.

The State party should adopt and enforce legislative and other measures to prevent such violations, in keeping with articles 6 and 9 of the Covenant and to improve the implementation of relevant laws. The State party should conduct prompt and impartial investigations, and prosecute and punish the perpetrators.

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

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

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at paras. 64(8), 64(12), 64(14), 64(15), 64(20) and 64(22).

(8) The Committee is concerned that the State party has not implemented the Committee's Views under the Optional Protocol in the cases of *Gridin v. Russian Federation* and *Lantsov v. Russian Federation*. While noting the delegation's explanation that the decision not to follow the Views of the Committee regarding the release of Mr Gridin was based on a careful study by the Supreme Court and Procurator's Office, the Committee expresses its concern that a failure to give effect to its Views would call into question the State party's commitment to the Optional Protocol.

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The Committee urges the State party to review its position in relation to Views adopted by the Committee under the Optional Protocol and to implement the Views, in order to comply with article 2, paragraph 3, of the Covenant which guarantees a right to an effective remedy when there has been a violation of the Covenant.

...

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

The State party should ensure that law enforcement officials are prosecuted for acts contrary to article 7 of the Covenant, and that the charges correspond to the seriousness of the acts committed. The State party should ensure the implementation of existing applicable legislation, as well as the Covenant, through further professional training of law enforcement personnel on the rights of suspects and detainees.

...

(14) While acknowledging the serious nature of the hostage-taking situation, the Committee cannot but be concerned at the outcome of the rescue operation in the Dubrovka theatre in Moscow on 26 October 2002. The Committee notes that various attempts to investigate the situation are still under way but expresses its concern that there has been no independent and impartial assessment of the circumstances, regarding medical care of the hostages after their liberation and the killing of the hostage-takers.

The State party should ensure that the circumstances of the rescue operation in the Dubrovka theatre are subject to an independent, in-depth investigation, the results of which are made public, and, if appropriate, prosecutions are initiated and compensation paid to the victims and their families.

(15) The Committee welcomes the marked improvement registered since the consideration of the previous report with regard to overcrowding in prisons and the scheduled further reduction of the number of prisoners by more than 150,000. However, it was not clear whether all serious overcrowding in all places of detention had been resolved. The Committee remains concerned about reports of poor hygiene and violence by prison officers in some places of detention.

The State party should continue to reinforce efforts to reform the prison system to meet the requirements of article 10 of the Covenant. The State party should ensure that the problem of overcrowding is completely eliminated and that prisoners' complaints concerning violations of their rights are promptly and thoroughly investigated. Moreover, the Committee encourages the adoption of the draft federal law "On public

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control over ensuring human rights in places of forced detention and assistance of public associations in their activities", adopted in first reading by the State Duma in September 2003, which would allow for independent oversight of prison conditions.

...

(20) While welcoming the State party's efforts to ban and prosecute groups propagating racist and xenophobic views, the Committee expresses its concern that the definition of "extremist activity" in the federal law of July 2002 "On Combating Extremist Activities" is too vague to protect individuals and associations against arbitrariness in its application.

The State party is encouraged to revise the above law with a view to making the definition of "extremist activity" more precise, to exclude any possibility of arbitrary application and give notice to persons concerned regarding actions for which they will be held criminally liable (arts. 15 and 19 to 22).

...

(22) The Committee expresses its concern at the high incidence of harassment, violent attacks and murders of journalists in the State party.

The State party should ensure that all cases of threats against and violent assault and murder of journalists are promptly and thoroughly investigated and that those found responsible are brought to justice (arts. 19 and 6).

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at paras. 65(4), 65(5), 65(7), 65(9) and 65(20).

(4) The Committee welcomes the significant progress in legislative and institutional reform since the review of the first periodic report in 1995, in particular the inclusion in the Constitution of chapter VIII on fundamental human rights, as well as the establishment of a Constitutional Court and the introduction of the right of individuals to launch a constitutional complaint. The Committee notes with great interest the rulings by the Constitutional Court removing from the national legal system norms conflicting with international human rights standards. Other positive legislative reforms include in particular the adoption and entry into force of a new Asylum Law, dealing with the question of non-*refoulement*; the labour law; amendments to the election law, removing the language requirement to stand for election; and to legislation on trafficking in human beings. The Committee also welcomes the creation of the National Programme for Integration of Society in Latvia and the Society Integration Fund.

(5) The Committee welcomes the establishment of the National Human Rights Office and particularly its use of the mandate to submit complaints to the Constitutional Court.

...

(7) The Committee is concerned about allegations of ill-treatment of persons by police officers, as well as the lack of statistical data on the number, details and outcome of cases

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of ill-treatment by police officers. Although it notes that, as of 2003, statistics on physical ill-treatment by police officers are being systematized (art. 7).

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

...

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

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

...

(20) While noting the explanation provided by the State party for the adoption of the Education Law of 1998, particularly the gradual transition to Latvian as the language of instruction, the Committee remains concerned about the impact of the current time limit on the move to Latvian as the language of instruction, in particular in secondary schools, on Russian-speakers and other minorities. Furthermore, the Committee is concerned about the distinction made in providing State support to private schools based on the language of instruction (arts. 26 and 27).

The State party should take all necessary measures to prevent negative effects on minorities of the transition to Latvian as the language of instruction. It should also ensure that if State subsidies are provided to private schools, they are provided in a non-discriminatory manner.

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at paras. 66(7), 66(9), 66(11), 66(16)-66(18) and 66(20).

(7) While taking note of the proposed constitutional reform and the legislative review project currently being undertaken by the National Human Rights Commission, the Committee remains concerned that Sri Lanka's legal system still does not contain provisions which cover all of the substantive rights set forth in the Covenant, or all the necessary safeguards required to prevent the restriction of Covenant rights beyond the limits permissible under the Covenant. It regrets in particular that the right to life is not expressly mentioned as a fundamental right in chapter III of the Constitution of Sri Lanka, even though the Supreme Court has, through judicial interpretation, derived protection of the right to life from other provisions of the Constitution. It is also concerned that contrary to the principles enshrined in the Covenant (e.g. the principle of

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non-discrimination), some Covenant rights are denied to non-citizens without any justification. It remains concerned about the provisions of article 16, paragraph 1, of the Constitution, which permits existing laws to remain valid and operative notwithstanding their incompatibility with the Constitution's provisions relating to fundamental rights. There is no mechanism to challenge legislation incompatible with the provisions of the Covenant (arts. 2 and 26). It considers that a limitation of one month to any challenges to the validity or legality of any "administrative or executive action" jeopardizes the enforcement of human rights, even though the Supreme Court has found that the one-month rule does not apply if sufficiently compelling circumstances exist.

The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that domestic law is harmonized with the obligations undertaken under the Covenant.

...

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

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

...

(11) While noting that corporal punishment has not been imposed as a sanction by the courts for about 20 years, the Committee expresses concern that it is still statutorily

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permitted, and that it is still used as a prison disciplinary punishment. Moreover, despite directives issued by the Ministry of Education in 2001, corporal punishment still takes place in schools (art. 7).

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

...

(16) The Committee expresses concern that the procedure for the removal of judges of the Supreme Court and the Courts of Appeal set out in article 107 of the Constitution, read together with Standing Orders of Parliament, is incompatible with article 14 of the Covenant, in that it allows Parliament to exercise considerable control over the procedure for removal of judges.

The State party should strengthen the independence of the judiciary by providing for judicial, rather than parliamentary, supervision and discipline of judicial conduct.

(17) While appreciating the repeal of the statutory provisions relating to criminal defamation, the Committee notes with concern that State radio and television programmes still enjoy broader dissemination than privately owned stations, even though the Government has taken media-related initiatives, by repealing the laws that provide for State control of the media, by amending the National Security Act and by creating a Press Complaints Commission (art. 19).

The State party is urged to protect media pluralism and avoid state monopolization of media, which would undermine the principle of freedom of expression enshrined in article 19 of the Covenant. The State party should take measures to ensure the impartiality of the Press Complaints Commission.

(18) The Committee is concerned about persistent reports that media personnel and journalists face harassment, and that the majority of allegations of violations of freedom of expression have been ignored or rejected by the competent authorities. The Committee observes that the police and other government agencies frequently do not appear to take the required measures of protection to combat such practices (arts. 7, 14 and 19).

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

...

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

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of judicial separation (art. 7).

The State party is urged to enact appropriate legislation in conformity with the Covenant without delay. It should criminalize marital rape in all circumstances. The State party is also urged to initiate awareness-raising campaigns about violence against women.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at paras. 67(7), 67(9) - 67(11) and 67(14) - 67(16).

(7) The Committee sees as a positive development the establishment of an internal mechanism to implement the decisions of international bodies such as the Human Rights Committee. However, the Committee notes that putting this mechanism into operation includes modalities that could hamper or delay the full implementation of the Committee's observations in respect of the Optional Protocol.

The State party should promote the expeditious and effective use of the machinery established under Act No. 288 of 1996 so as to ensure the full implementation without delay of the observations of the Human Rights Committee in respect of the Optional Protocol.

...

(9) The Committee notes with concern that the so-called "anti-terrorist statute" (draft legislative act No. 223 of 2003) was adopted into Colombian law in December 2003. This law makes provision for granting to the armed forces the powers of judicial police, and also authorizes searches, administrative detention and other measures without a prior judicial order. It also places restrictions on the right to privacy and the right to apply for remedies. These provisions do not seem to be compatible with the guarantees set forth in the Covenant (arts. 9, 14 and 17).

The State party should ensure that, in the application of this law, no breaches of the guarantees laid down in the Covenant (arts. 2, 9, 14 and 17) occur.

(10) The Committee expresses its concern with regard to draft legislative act No. 10 of 2002, which seeks to amend certain provisions of the Constitution dealing with the administration of justice. This draft legislation proposes modifications to *amparo* proceedings, rendering them inadmissible for reviews of certain judicial decisions. Furthermore, the draft proposes to eliminate constitutional controls on the declaration of states of emergency.

The State party should take into consideration the fact that some of the provisions of this draft legislation would be in clear contradiction with provisions of the Covenant, in particular articles 2, 4 and 14. If it were to be adopted, such fundamental remedies as

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amparo proceedings could be jeopardized.

(11) The Committee is concerned about the fact that a significant number of arbitrary detentions, abductions, forced disappearances, cases of torture, extrajudicial executions and murders continue to occur in the State party. The Committee is also concerned that such practices as the arrest of election candidates continue, and that murders of legislators dating from earlier years remain unpunished. Human rights defenders, political and trade union leaders, judges and journalists continue to be targets of such actions. The abduction of presidential candidate Ingrid Betancourt in February 2002 continues to be of concern to the Committee, as do the other abductions. The Committee is also disturbed about the participation of agents of the State party in the commission of such acts, and the apparent impunity enjoyed by their perpetrators.

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

...

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

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

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

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

(16) The Committee is concerned that military tribunals are continuing to investigate

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

The State party should ensure that the ordinary courts investigate and adjudicate such crimes and that all elements of the armed forces cooperate in the proceedings in question.

Individuals under investigation for such crimes should be suspended from active duty during the investigation and trial.

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at paras. 68(8), 68(12), 68(15) and 68(16).

(8) The Committee commends the continuing positive role of the Federal Constitutional Court in safeguarding fundamental rights, e.g. through its decisions to strengthen the protection of religious liberties and to improve the protection of privacy in the area of audio surveillance of residential premises.

...

(12) The Committee notes that owing to the State party's federal structure, in exercising its overall responsibility for compliance with the Covenant it may encounter acts and omissions of the authorities of the Länder in areas of their exclusive competence that are not consistent with the Covenant.

The State party is reminded of its responsibilities in relation to article 50 of the Covenant; it should establish proper mechanisms between the federal and Länder levels to further ensure the full applicability of the Covenant.

...

(15) While the Committee notes with satisfaction that the use of firearms by the police is restricted by law to a measure of coercion *in extremis* and that the number of persons killed or injured by the use of such force has declined in recent years, it is concerned that in some of these cases the use of firearms might not have been justified (art. 6).

(a) The State party should ensure prompt, thorough and impartial investigation of all cases of persons killed or injured as a consequence of the use of firearms by police forces, bring to justice those responsible for violations of the law, and grant full reparation, including fair and adequate compensation, and rehabilitation to victims and their families.

...

(16) While appreciating the reduction in the number of complaints made public in recent years, the Committee expresses its concern about continuing reports of ill-treatment of persons by the police, including foreigners and members of ethnic minorities. It is concerned that despite the previous concluding observations of the

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Committee, the State party has not found ways to monitor the situation effectively and still lacks the necessary statistical information on police misconduct (art. 7).

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

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

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

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at paras. 69(8) and 69(11).

(8) The Committee regrets that the State party has not provided detailed information concerning the implementation of the Committee's findings in its Views on communications Nos. 146/1983 and 148-154/1983 (*Baboeram et al. v. Suriname*).

The State party is urged to implement the Committee's findings on communications Nos. 146/1983 and 148-154/1983. The State party should consider adopting appropriate procedures for implementing the Committee's Views under the Optional Protocol.

...

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

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

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(6), 70(7), 70(11), 70(17) and

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70(20).

(6) The Committee is concerned about the uncertain status of the Covenant in domestic law (art. 2).

The State party should clarify the status of the Covenant in domestic law.

(7) While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about recent attempts to undermine the independence of the Commission. It is also concerned about the frequent lack of implementation by the State party of the Commission's decisions concerning both awards of compensation to victims of human rights violations and the prosecution of human rights offenders in the limited number of cases in which the Commission had recommended such prosecution (art. 2).

The State party should ensure that decisions of the Uganda Human Rights Commission are fully implemented, in particular concerning awards of compensation to victims of human rights violations and prosecution of human rights offenders. It should ensure the full independence of the Commission.

...

(11) The Committee is concerned about the persistence of domestic violence and the lack of investigation, prosecution and punishment of perpetrators (arts. 3, 7 and 26).

The State party should adopt effective measures to prevent domestic violence, punish offenders and provide material and psychological relief to the victims. It should also train law enforcement officials, in particular police officers, to deal with cases of domestic violence.

...

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

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

...

(20) The Committee has observed with concern the forced employment of children in activities harmful to their health and well-being, as well as the ineffectiveness of the

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measures adopted to deal with this problem (arts. 8 and 24).

The State party should adopt measures to avoid the exploitation of child labour and to ensure that children enjoy special protection, in accordance with article 24 of the Covenant. It should also provide for effective sanctions against those involved in such practices.

- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at para. 71(6), 71(7) and 71(13).

(6) The Committee notes that some 30 per cent of the recommendations and proposals issued by the Parliamentary Ombudsman have apparently not been implemented (art. 2).

The State party should take appropriate measures to increase the level of implementation of these decisions.

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

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

...

(13) The Committee is concerned that persons may still be detained in respect of administrative offences, and it regrets the paucity of information it has received on various forms of administrative detention, such as involuntary psychiatric care, immigration detention and detention as administrative punishment. It is also concerned that persons may be detained in police custody beyond the 48-hour limit within which they must either be brought before a judge on criminal charges or be made subject to the proceedings applicable to administrative offences, and that they may be returned to police custody for further investigation (arts. 7 and 9).

The State party should eliminate the institution of detention for administrative offences

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

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at paras. 72(6), 72(9) - 72(13), 72(20) - 72(23) and 72(27).

(6) The Committee is concerned at the fact that the State party is unable to affirm, in the absence of a finding by an international body that it has failed to honour its obligations, that the Covenant automatically applies when it exercises power or effective control over a person outside its territory, regardless of the circumstances in which such power or effective control was obtained, such as forces constituting a national contingent assigned to an international peacekeeping or peace enforcement operation (art. 2).

The State party should respect the safeguards established by the Covenant, not only in its territory but also when it exercises its jurisdiction abroad, as for example in the case of peacekeeping missions or NATO military missions, and should train the members of such missions appropriately.

...
(9) The Committee is concerned at the impact of the immediate application of the Act of 5 August 2003 on complaints lodged under the Act of 16 June 1993 relating to sanctions for serious violations of international humanitarian law (arts. 2, 5, 16 and 26).

The State party should guarantee victims' acquired right of access to an effective remedy without discrimination of any kind, insofar as the binding rules of general international law relating to diplomatic immunity do not apply.

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

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

(11) The Committee is concerned at the fact that the right to an effective remedy for individuals illegally in Belgium is jeopardized by the fact that police officers are obliged

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to report their presence. It notes in addition that the lengths of stay authorized to enable illegal aliens who have lodged complaints to complete proceedings to assert their rights under the Covenant remain at the discretion of the Aliens Office (arts. 2 and 26).

Besides adjusting authorized lengths of stay, the State party should devise additional ways of guaranteeing such individuals the right to an effective remedy.

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

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

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

The State party should adjust the membership of the investigative services with a view to ensuring that they are genuinely efficient and independent.

...

(20) The Committee is concerned at the fact that, nearly seven years after the creation of the Dupont Commission, the State party has still not modernized its prison legislation. It does take note of the assurance by the delegation that a bill on the subject is to be discussed during the present session of the legislature as a matter of priority (art. 10).

The State party should swiftly pass legislation to define the legal status of detainees, clarify the disciplinary regime in prisons and guarantee the right of detainees to lodge complaints and appeal to an independent, readily accessible body against disciplinary punishment.

(21) The Committee welcomes the establishment of an Individual Complaints Board to look into complaints from aliens about the conditions under which they are held and the rules to which they are subject, but is concerned that complaints have to be lodged within five days and do not have the effect of suspending expulsion measures (arts. 2 and 10).

The State party should extend the deadline for lodging complaints and give complaints a suspensive effect on expulsion measures.

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(22) The Committee is disturbed that the rules governing the operation of INAD centres (for passengers refused entry to the country) and the rights of the aliens held there do not appear to be clearly established in law (arts. 2 and 10).

The State party should clarify the situation and ensure that the aliens held in such centres are informed of their rights, including their rights to appeal and to lodge complaints.

(23) The Committee is concerned that the ministerial circular of 2002 giving suspensive effect to emergency remedies filed by asylum-seekers against expulsion orders has not been published; this is likely to leave the individuals concerned in a legally uncertain situation (arts. 2 and 13).

The State party should establish clear rules in its legislation to govern appeals against expulsion orders. It should give suspensive effect not only to emergency remedies but also to appeals accompanied by an ordinary request for suspension filed by any alien against an expulsion order concerning him or her.

...
(27) The Committee notes with concern that a number of racist, xenophobic, anti-Semitic and anti-Muslim acts have taken place in Belgium. It is concerned that political parties urging racial hatred can still benefit from the public financing system, and observes that a bill designed to put an end to that situation is still being considered by the Senate (art. 20).

The State party should take all necessary steps to protect communities resident in Belgium against racist, xenophobic, anti-Semitic and anti-Muslim acts. It should have the above-mentioned bill passed as soon as possible, and consider sterner measures to prevent individuals and groups from seeking to arouse racial hatred and xenophobia, in pursuance of article 20, paragraph 2, of the Covenant.

- Liechtenstein, ICCPR, A/59/40 vol. I (2004) 61 at paras. 73(7), 73(8) and 73(12).

(7) While noting the numerous measures taken by the State party to address the problem of inequality between men and women, the Committee notes the persistence of a passive attitude in society towards the role of women in many areas, especially in public affairs...

The State party should continue to take effective measures, including by legislative amendments, to address inequality between men and women. It is encouraged to take measures designed to enhance the participation of women in Government and decision-making processes, and to further promote equality of men and women in

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non-public areas...

(8) The Committee regrets the persistence of domestic violence against women and children in the State party (arts. 3 and 7).

The State party should take all necessary measures to combat domestic violence, punish offenders and provide material and psychological relief to the victims.

...

(12) While noting that the constitutional amendments of 2003 sought to clarify the system of appointment and tenure of judges, the Committee is concerned about some elements of the new mechanism which may not be compatible with the principle of the independence of the judiciary (art. 14).

The State party should consider amending the mechanism for the appointment of judges to secure tenure, so as to guarantee fully the principle of the independence of the judiciary. The elements to be reviewed should include: the criteria for the appointment of members to the selecting body, the casting vote of the Princely House and the limited nature of tenure.

- Namibia, ICCPR, A/59/40 vol. I (2004) 64 at paras. 74(5), 74(8), 74(11), 74(12), 74(14) - 74(16), 74(18) and 74(21).

(5) The Committee welcomes the fact that the Constitution stipulates that general rules of international law and international agreements binding on the State party are part of the domestic law and appreciates the information on the use made by the State party's courts in recent cases concerning provisions of the Covenant.

...

(8) The Committee acknowledges the information provided by the State party on the implementation of its Views adopted under the Optional Protocol with regard to cases No. 760/1997 (*Diergaardt et al. v. Namibia*) and No. 919/2000 (*Müller and Engelhard v. Namibia*). It nevertheless notes with concern the absence of a mechanism to implement the Committee's Views adopted under the Optional Protocol.

The State party should establish a mechanism to implement the Committee's Views adopted under the Optional Protocol.

...

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

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

...

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

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

...

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

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

(15) The Committee takes note of the reports that certain media personnel and journalists have faced harassment and that these allegations have not been investigated either promptly or thoroughly by the competent authorities.

The State party should take appropriate steps to prevent threats to and harassment of media personnel and journalists, and ensure that such cases are investigated promptly and with the requisite thoroughness and that suitable action is taken against those responsible.

(16) The Committee notes with appreciation the decision of the Supreme Court in *The State v. John Sikundeka Samboma and others* (known as the Caprivi treason trial) reaffirming the right of persons in Namibia to legal aid. However, the Committee is concerned that access to this right is not properly ensured in practice.

The State party should take measures to strengthen the implementation of the legal aid scheme and ensure the provision of legal aid to individuals entitled to receive it, in particular by increasing the availability of funds.

...

(18) The Committee expresses its concern about the absence of any mechanism or procedure for the removal of judges for misconduct.

The State party should establish an effective and independent mechanism and provide for a proper procedure for the impeachment and removal of judges found guilty of misconduct.

...

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(21) While the Committee notes the reason why the State party recognizes only one official language, it is concerned that those persons who do not speak the official language may be discriminated against in the administration of public affairs and in the administration of justice.

The State party should take measures to ensure, to the extent possible, that persons who only speak non-official languages used widely by the population are not denied access to public service. It should undertake measures to protect the use of such languages.

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at paras. 75(10), 75(11), 75(13) - 75(16), 75(19) - 75(21), 75(23) and 75(25).

(10) While noting the effective work regarding exhumations and autopsies of some 700 bodies from mass graves in Batajnica, the Committee is concerned at the lack of progress in investigations and prosecutions of the perpetrators of those crimes (arts. 2, 6).

The State party should, along with the exhumation process, immediately commence investigations into apparent criminal acts entailing violations of the Covenant. The particular needs of the relatives of the missing and disappeared persons must equally be addressed by the State party, including the provision of adequate reparation.

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

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

...

(13) The Committee is concerned at the measures taken under the state of emergency, which included substantial derogations from the State party's human rights obligations under the Covenant. The Committee notes the ruling of the Constitutional Court of Serbia of 8 July 2004, declaring unconstitutional some of the measures derogating from the Covenant taken by the Republic of Serbia under the state of emergency, and steps taken to punish violations that have occurred during this period and to provide compensation to all victims. Nevertheless, the Committee regrets that several concerns

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remain, particularly with regard to allegations of torture of detainees in the context of “Operation Sabre” (arts. 4, 7, 9, 14, 19).

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

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

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

(15) While taking note of the establishment in Serbia of the Office of Inspector General of the Public Security Service in June 2003, the Committee is concerned that no independent oversight mechanism exists for investigating complaints of criminal conduct against members of the police, which could contribute to impunity for police officers involved in human rights violations (arts. 2, 7, 9).

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

(16) The Committee notes that Serbia and Montenegro is a main transit route for trafficking in human beings and increasingly a country of origin and destination... The Committee is ... concerned at the lack of effective witness protection mechanisms and notes the apparent lack of awareness about trafficking in women and children on the part of law enforcement officials, prosecutors and judges...

The State party should take measures to combat trafficking in human beings, which constitutes a violation of several Covenant rights, including articles 3 and 24 and the right under article 8 to be free from slavery and servitude. Strong measures should be taken to prevent trafficking and to impose sanctions on those who exploit women and

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children in this way. Protection should be extended to all victims of trafficking so that they may have a place of refuge and an opportunity to give evidence against the persons responsible in criminal or civil proceedings.

...

(19) The Committee takes note of efforts undertaken by Serbia to strengthen the independence of the judiciary. However, it is concerned at alleged cases of executive pressure on the judiciary in Serbia, and measures regarding the judiciary undertaken during the state of emergency (art. 14).

The State party should ensure strict observance of the independence of the judiciary.

(20) The Committee is concerned at the possibility of civilians being tried by military courts for crimes such as disclosure of State secrets (art. 14).

The State party should give effect to its aspiration to secure that civilians are not tried by military courts.

(21) The Committee takes note of the information provided by the delegation whereby conscientious objection is governed by a provisional decree, which is to be replaced by a law, which will recognize full conscientious objection to military service and an alternative civil service that will have the same duration as military service (art. 18).

The State party should enact the said law as soon as possible. The law should recognize conscientious objection to military service without restrictions (art. 18) and alternative civil service of a non-punitive nature.

...

(23) While noting the adoption of the Law on the Protection of the Rights and Freedoms of National Minorities, the Committee remains concerned that the practical enjoyment by members of ethnic, religious and linguistic minorities of their Covenant rights still requires improvement. In this context, the Committee notes the lack of a comprehensive non-discrimination legislation covering all aspects of distinction (arts. 2, 26, 27).

The State party should ensure that all members of ethnic, religious and linguistic minorities, whether or not their communities are recognized as national minorities, enjoy effective protection against discrimination and are able to enjoy their own culture, to practise and profess their own religion, and use their own language, in accordance with article 27 of the Covenant. In this context, the State party should enact comprehensive non-discrimination legislation, in order to combat ethnic and other discrimination in all fields of social life and to provide effective remedies to victims of discrimination.

...

(25) While noting reports about the decrease in police violence against Roma, the Committee continues to be concerned at violence and harassment by racist groups, and

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inadequate protection against racially motivated acts afforded by law enforcement officers (arts. 2, 20, 26).

The State party should take all necessary measures to combat racial violence and incitement, provide proper protection to the Roma and other minorities, and establish mechanisms to receive complaints from victims and ensure investigation and prosecution of cases of racial violence and incitement to racial hatred, and ensure access to adequate remedies and compensation.

- Finland, ICCPR, A/60/40 vol. I (2004) 22 at paras. 81(3) and 81(8).

(3) The Committee notes with satisfaction the adoption of:

(a) A new law against discrimination which entered into force in February 2004, banning all direct or indirect discrimination based on age, ethnic or national origin, nationality, language, religion, beliefs, opinions, health, disability and sexual orientation and placing the burden of proof before the courts on the defendant;

(b) New language in the Penal Code punishing trafficking in human beings under chapter 25 of the Code and infringements of personal liberty, and allowing any citizen of the State party who is guilty of trafficking in persons abroad to be prosecuted under Finnish law pursuant to chapter 1, section 7, of the Code, and for international offences, whatever law may apply where the offence was committed;

(c) Steps that have increased the number of women in senior posts within the administration, including the directors of several ministries. These steps should be followed up in order to allow qualified women greater opportunities to occupy decision-making posts.

...

(8) The Committee regrets that the State party has only partly followed up on its observations regarding communication No. 779/1997 (*Anni Aärelä and Jouni Näkkäljärvi v. Finland*).

The State party is urged to give full effect to the Committee's observations. It should consider introducing appropriate procedures to give effect to the observations adopted by the Committee under the Optional Protocol.

- Albania, ICCPR, A/60/40 vol. I (2004) 25 at paras. 82(4), 82(12), 82(13), 82(15), 82(18), 82(19) and 82(22).

(4) The Committee welcomes the fact that the provisions of the Covenant are directly

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applicable in the domestic legal order and that they have been invoked in the domestic courts.

...

(12) While welcoming the progress made by the State party in the fight against traditional “blood feuds” and situations where potential victims, including children, do not leave their homes, the Committee is concerned about these phenomena and the lack of detailed information provided about crimes related to customary law and traditional codes (arts. 6 and 7).

The State party should take firm measures to eradicate crimes committed under the guise of customary law and traditional codes. It should investigate such crimes and prosecute and punish all the perpetrators.

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

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

...

(15) While the Committee acknowledges that Albania’s role has decreased as a transit route for trafficking in human beings and welcomes the legal and practical measures taken by the State party to address and combat trafficking in women and children originating from the country, it remains concerned about this phenomenon, about reports on the involvement of police and government officials in acts of trafficking, and about the lack of effective witness and victim protection mechanisms (arts. 8, 24 and 26).

The State party should continue to reinforce international cooperation as well as practical measures to combat trafficking in human beings, prosecute and punish perpetrators and combat trafficking-related corruption. Protection should be provided to all witnesses and victims of trafficking so that they may have a place of refuge and an opportunity to give evidence against those held responsible.

...

(18) The Committee has taken note of the efforts undertaken by Albania to strengthen

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the independence and efficiency of its judiciary. It remains concerned, however, about alleged cases of executive pressure on the judiciary and persistent problems of corruption, lack of access to counsel and legal aid, and undue delay of trials (art. 14).

The State party should guarantee the independence of the judiciary, take measures to eradicate all forms of interference with its independence, ensure prompt, thorough, independent and impartial investigations into all allegations of interference and prosecute and punish perpetrators. It should establish mechanisms to improve the capacity and efficiency of the judiciary, to allow access to justice to all without discrimination and ensure that unconvicted detainees are brought to trial as speedily as possible.

(19) The Committee is concerned about instances of harassment and physical violence against journalists as well as about threats of defamation suits against them, and with the lack of information provided by the State party about those situations (art. 19).

The State party should fully guarantee and protect the right of freedom of opinion and expression of journalists and media representatives and introduce legal mechanisms and practical measures to that effect, and should prosecute and punish perpetrators of interference with those rights.

...

(22) While noting the adoption of institutional measures to improve the rights of minorities, the Committee remains concerned that the practical enjoyment of the Covenant rights by members of ethnic and linguistic minorities is imperilled by a variety of factors and discriminatory practices (arts. 2, 26 and 27).

The State party is urged to ensure that all members of ethnic and linguistic minorities, whether or not they are recognized as national minorities, are effectively protected against discrimination and may enjoy their own culture and use their own language, have access to all social rights, participate in public affairs, and are provided with effective remedies against discrimination.

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at paras. 83(3), 83(7), 83(8), 83(14), 83(16), 83(18) and 83(23).

(3) The Committee notes with satisfaction that individuals are able to bring matters before the Constitutional Court in a simple procedure, and that the Court has a role to play in protecting fundamental rights.

...

(7) The Committee notes with concern that the individual complaint procedure before the Court, which is highly important, is largely unknown to the public and that the Court decisions are not subject to a follow-up procedure (art. 2 of the Covenant).

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The State party should make people more aware of the opportunities they have to bring matters before the Constitutional Court, ensure that the Court's decisions are enforced, and contemplate the establishment of a body to follow up the Court's decisions.

(8) The Committee notes with concern that the Beninese Commission on Human Rights is no longer operational and that the State party has not taken the necessary measures, including budgetary measures, to enable the Commission to function effectively. It recalls that an independent national human rights institution having as its mandate the promotion and protection of rights cannot be replaced by non-governmental organizations or by the National Human Rights Advisory Board within the Ministry of Justice (article 2 of the Covenant).

The State party should set up a national human rights institution, in accordance with the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights (General Assembly resolution 48/134).

...
(14) The Committee is concerned at the persistence of vigilante justice. It also notes with concern that infanticides motivated by traditional beliefs are being committed in the country (articles 6, 7 and 24 of the Covenant).

The State party should protect persons from acts committed by individuals that infringe their right to life and physical integrity, and should exercise due diligence with a view to preventing and punishing such acts, investigating them and providing reparations for the resulting harm...

...
(16) The Committee notes with concern that the most basic rights of persons in police custody are not guaranteed under Beninese law (articles 7, 9 and 14 of the Covenant).

The State party should guarantee the right of persons in police custody to have access to a lawyer in the initial hours of detention, to inform their family members of their detention and to be informed of their rights. Provision should be made for a medical examination at the beginning and at the end of the detention period. Provision should also be made for rapid and effective remedies to allow detainees to challenge the legality of their detention and assert their rights.

...
(18) The Committee notes the efforts made by the State party to bring the system of justice closer to the people but remains concerned at reports of serious dysfunctions in the administration of justice, owing chiefly to the lack of human and material resources, the overcrowding of dockets, the slow pace of proceedings, corruption and the interference of the executive in the judiciary. In this connection, the Committee notes with concern the protests by judges against the outright handing over to the Nigerian authorities of persons and vehicles under court administration and other acts related to

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the so-called *Hamani* case (articles 2, 13 and 14 of the Covenant).

The State party should give greater priority to efforts to address these problems. It should ensure the prompt and effective implementation of the Act of 27 August 2002 on the organization of the judiciary increasing the number of courts and tribunals, strengthen the independence of the justice system by effectively prohibiting any interference by the executive in the judiciary, and ensure that appeals are dealt with in a reasonable amount of time. It should also provide effective reparation for violations established by the Constitutional Court. The State party should also ensure that the expulsion of individuals is based solely on a decision taken in conformity with the law and that such individuals are given an opportunity to contest their expulsion.

...

(23) The Committee notes with concern that public demonstrations have been banned for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant.

The State party should guarantee the right of peaceful assembly and impose only those restrictions that are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. Timely remedies for appealing any ban should be available.

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at paras. 84(12), 84(14) and 84(20).

(12) While acknowledging the work done by the Consultative Council on Human Rights (CCDH) in the field of data collection and compensation in relation to disappeared persons, the Committee is concerned that those responsible for disappearances have still not been identified, tried and punished (Covenant, arts. 6 and 7).

The State party should conduct the necessary investigations to identify, try and punish those responsible for such crimes (Covenant, arts. 6 and 7).

...

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

The State party should ensure that complaints of torture and/or ill-treatment are examined

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promptly and independently. The conclusions of such examinations should be studied in depth by the relevant authorities so that those responsible can be not only disciplined but also punished under criminal law. All places of detention should be subject to independent inspection (Covenant, arts. 7 and 10).

...

(20) The Committee is concerned that the Criminal Code permits any serious attack using violence to be classed as a terrorist act. It is also concerned about the numerous reports that the Anti-Terrorism Act adopted on 28 May 2003 is being applied retroactively.

In order to rectify this situation of legal uncertainty, the Committee recommends that the State party should amend the legislation in question by clearly defining its scope, and requests it to ensure compliance with the provisions of article 15 and all the other provisions of the Covenant.

- Poland, ICCPR, A/60/40 vol. I (2004) 40 at paras. 85(11) and 85(17) - 85(19).

(11) Notwithstanding a variety of programmes intended to deal with domestic violence, the Committee regrets that the number of cases of domestic violence remains high. It is also concerned that measures such as restraining orders and temporary arrests are not widely used, that appropriate protection is not afforded to victims, that shelters do not exist in many places, and that training for law enforcement officers is inadequate (arts. 3 and 7).

The State party should ensure that law enforcement officers are properly trained and that appropriate measures to address domestic violence cases, including restraining orders, are available as required. The State party should also increase the number of shelters and other means of protection for victims throughout the country.

...

(17) While noting measures taken to improve the conditions of the Roma community, the Committee is concerned that the Roma continue to suffer prejudice and discrimination, in particular with regard to access to health services, social assistance, education and employment. It is also concerned that acts of violence against members of the Roma community are not appropriately investigated and sanctioned (arts. 2, 26 and 27).

The State party should intensify its efforts to prevent discrimination against the Roma community and ensure their full enjoyment of their Covenant rights. The police and judiciary should be properly trained to investigate and sanction all acts of discrimination and violence against the Roma.

(18) The Committee is concerned that the right of sexual minorities not to be

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discriminated against is not fully recognized, and that discriminatory acts and attitudes against persons on the ground of sexual orientation are not adequately investigated and punished (art. 26).

The State party should provide appropriate training to law enforcement and judicial officials in order to sensitize them to the rights of sexual minorities. Discrimination on the ground of sexual orientation should be specifically prohibited in Polish law.

(19) The Committee notes with concern that incidents of desecration of Catholic and Jewish cemeteries, and acts of anti-Semitism, have not always been properly investigated and the perpetrators punished (arts. 18, 20 and 27).

The State party should intensify efforts to combat and punish all such incidents. Law enforcement bodies and the judiciary should be properly trained and instructed on how to address such complaints.

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at paras. 86(3), 86(8), 86(9), 86(11), 86(13), 86(18), 86(23) and 86(25).

(3) The Committee welcomes the fact that the State party's new draft constitution includes a proposed Bill of Rights that is inspired by international human rights standards and seeks to remedy present deficiencies in the protection of fundamental rights, including gender disparities. It hopes that a Bill of Rights in full conformity with the Covenant will be adopted soon.

...

(8) The Committee notes that the Covenant has not been incorporated into domestic law and that the provisions of international human rights instruments, in particular the Covenant, are not in practice invoked in courts of law. It stresses that implementation of Covenant guarantees and the possibility of invoking the Covenant before domestic courts do not depend on the State party being a party to the first Optional Protocol to the Covenant.

The Committee invites the State party to take appropriate measures to allow Covenant rights to be invoked in the domestic courts.

(9) The Committee notes with concern that because of, *inter alia*, widespread corruption, the access of citizens to domestic courts and to judicial remedies is limited in practice. The frequent failure to enforce court orders and judgements is an additional cause of concern (article 2 of the Covenant).

The State party should ensure that all individuals subject to its jurisdiction have equal

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access to judicial and other remedies.

...

(11) The Committee is disturbed by the fact, acknowledged by the delegation, that domestic violence against women remains a recurrent practice in Kenya and that women do not benefit from adequate legal protection against acts of sexual violence - another widespread phenomenon (articles 7 and 10 of the Covenant).

The State party should adopt effective and concrete measures to combat these phenomena.

It should sensitize society as a whole to this matter, ensure that the perpetrators of such violence are prosecuted and provide assistance and protection to victims. The draft Family Protection (Domestic Violence) Bill should be enacted as soon as possible.

...

(13) While welcoming the fact that no one sentenced to capital punishment has been executed in Kenya since 1988, the Committee notes with concern that there is a large but unspecified number of individuals under sentence of death, and that the death penalty applies to crimes not having fatal or similarly grave consequences, such as robbery with violence or attempted robbery with violence, which do not qualify as "most serious crimes" within the meaning of article 6, paragraph 2, of the Covenant.

The State party should consider abolishing the death penalty *de jure* and acceding to the Second Optional Protocol to the Covenant. The State party should remove the death penalty from the books for crimes that do not meet the requirements of article 6, paragraph 2. It should ensure that the death sentences of all those on death row whose final appeals have been exhausted are commuted.

...

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

...

(23) The Committee notes with concern that large public political meetings are subject to a prior notification requirement of at least three days under section 5 of the Public Order Act, and that public demonstrations have not been authorized for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant. Additional matters of concern are that no remedy appears to be available for the denial of an authorization, and that unauthorized meetings are at times broken up with violence

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(article 21, paragraph 2, of the Covenant).

The State party should guarantee the right of peaceful assembly and impose only those restrictions that are necessary in a democratic society.

...

(25) The Committee is concerned about allegations of trafficking of children and instances of child prostitution, as well as the State party's failure to prosecute and punish trafficking offences that have come to the authorities' knowledge and to afford adequate protection to victims (articles 8 and 24 of the Covenant).

The State party should adopt specific anti-trafficking legislation, including for the protection of the human rights of victims, and actively investigate and prosecute trafficking offences. It should implement policy across Government for the eradication of trafficking and for the provision of support to victims of trafficking.

- Iceland, ICCPR, A/60/40 vol. I (2005) 50 at paras. 87(9), 87(11) and 87(14).

(9) The Committee regrets that, despite the recommendation it made in 1998 and the incorporation into domestic law of articles 3, 24 and 26, the Covenant itself has not been incorporated into Icelandic law, whereas the European Convention on Human Rights (ECHR) has. The Committee notes in this regard that several Covenant provisions, including articles 4, 12, 22, 25 and 27, go beyond the scope of the provisions of the ECHR.

The Committee encourages the State party to ensure that all rights protected under the Covenant are given effect in Icelandic law.

...

(11) The Committee notes with concern the high number of reported rapes in the State party, in comparison with the number of prosecutions undertaken on this ground. The Committee recalls that doubt is an obstacle to conviction, but not to prosecution, and that it is in the province of the courts to determine whether a charge is proven or not (articles 3, 7 and 26 of the Covenant).

The Committee recommends that the State party ensure that rape does not go unpunished.

...

(14) The Committee has noted with concern the delegation's information that, in the case of minor offences (misdemeanours), the convicted person cannot appeal against the conviction and sentence to a higher tribunal, except in exceptional circumstances where the Supreme Court may so authorize (article 14, paragraph 5, of the Covenant).

The State party should recognize the right of everyone convicted of a criminal offence to

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have his/her sentence and conviction reviewed by a higher tribunal.

- Mauritius, ICCPR, A/60/40 vol. I (2005) 52 at paras. 88(6), 88(7) and 88(13).

(6) The Committee reiterates its concern over the failure to integrate all the rights guaranteed under the Covenant into national legislation, more particularly the maintenance of legislative and constitutional provisions at variance with the Covenant. It stresses once again that the Mauritian legal system does not provide effective remedies in all cases of violations of the rights guaranteed by the Covenant (Covenant, art. 2). The Committee notes yet again that the maintenance of article 16 of the Constitution, by virtue of which the prohibition of discrimination does not apply to personal-status laws and to foreigners, might well result in the violation of articles 3 and 26 of the Covenant.

The State party should give full effect to the provisions of the Covenant in its domestic legislation prohibiting all forms of discrimination.

(7) While the Committee welcomes the establishment in April 2001 of the National Human Rights Commission, it notes the Commission's shortcomings in terms of guarantees of independence in appointing and dismissing its members. Furthermore, the Commission does not have its own budget and its investigative powers are restricted. Moreover, it often requests the police to investigate the complaints submitted to it (Covenant, art. 2).

The State party should ensure that the Human Rights Protection Act 1998 establishing this Commission and its practice are in line with the Paris Principles.

...

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

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

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- Uzbekistan, ICCPR, A/60/40 vol. I (2005) 56 at para. 89(6).

(6) The Committee recalls that in several cases, the State party has executed prisoners under sentence of death, although their cases were pending before the Committee under the Optional Protocol to the Covenant and requests for interim measures of protection had been addressed to the State party. The Committee recalls that in acceding to the Optional Protocol, the State party recognized the Committee's competence to receive and examine complaints from individuals under the State party's jurisdiction. Disregard of the Committee's requests for interim measures constitutes a grave breach of the State party's obligations under the Covenant and the Optional Protocol.

The State party should adhere to its obligations under the Covenant and the Optional Protocol, in accordance with the principle of *pacta sunt servanda*, and take the necessary measures to avoid similar violations in future.

- Greece, ICCPR, A/60/40 vol. I (2005) 60 at paras. 90(8), 90(9) and 90(19).

(8) The Committee is concerned about the impediments that Muslim women might face as a result of the non-application of the general law of Greece to the Muslim minority on matters such as marriage and inheritance (arts. 3 and 23).

The Committee urges the State party to increase the awareness of Muslim women of their rights and the availability of remedies and to ensure that they benefit from the provisions of Greek civil law.

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

...

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

...

(19) The Committee is concerned at reports of continued discrimination against individuals on the basis of their sexual orientation (arts. 17 and 26).

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The State party should provide remedies against discriminatory practices on the basis of sexual orientation, as well as informational measures to address patterns of prejudice and discrimination.

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at paras. 91(12) and 91(14).

(12) The Committee notes with concern that domestic violence remains persistent in Yemen and that the law provides for lower sentences for husbands who have murdered their wives caught in the act of adultery than is generally provided for in cases of murder (arts. 3, 6 and 7).

The State party should actively combat domestic violence through awareness-raising campaigns as well as the enactment of appropriate penal legislation...The State party should abolish legislation providing for lower sentences in case of “honour killings”.

...

(14) The Committee is concerned about the use of force by security forces on 21 March 2003, which resulted in the killing of four people, including an 11-year-old-boy, participating in a demonstration against the war in Iraq (art. 6).

The State party should conduct a full and impartial investigation into these events and should, depending on the findings of the investigation, institute proceedings against the perpetrators of the killings. It should also provide remedies to the victims’ families.

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at paras. 92(4), 92(10), 92(11), 92(15) and 92(17).

(4) The Committee welcomes the existence of legal sanctions against forced marriages and polygamy.

...

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

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

(11) The Committee is concerned about the widespread accounts of detainees’ access to

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a lawyer being obstructed, particularly in the period immediately following arrest. It appears that the right to consult a lawyer only arises in the State party when an arrest is registered, rather than from the actual moment of arrest (arts. 7, 9 and 14, para. 3 (b)).

The State party should take measures to ensure that the right to counsel arises at the moment of arrest, and that any instances where law enforcement officers are alleged to have obstructed access to a lawyer are fully investigated and appropriately punished. This right should also be ensured in respect of persons in need of free legal assistance.

...

(15) The Committee has noted that the Constitutional Court and subsequently the Supreme Court have issued rulings prohibiting the use of evidence obtained in violation of the law. However, the Committee remains concerned about the absence of any prohibitive provision in the State party's criminal procedure law to this effect (art. 14, paras. 1 and 3 (g)).

The State party should proceed to the necessary amendments of its Criminal Procedure Code and prohibit the use of evidence obtained in violation of the law, including under duress. All allegations of illegal use of evidence in court must be duly examined, investigations must be conducted, and courts must take into consideration the outcome of such investigations.

...

(17) The Committee is concerned about the apparent lack of independence of the judiciary, as reflected in the process of appointment and dismissal of judges as well as in their economic status (art. 14, para. 1).

The State party should guarantee the full independence and impartiality of the judiciary by establishing an independent body charged with the responsibility of appointing, promoting and disciplining judges at all levels and by remunerating judges with due regard for the responsibilities and the nature of their office.

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

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

The State party should take appropriate measures to prevent and punish all forms of ill-treatment by law enforcement officials to ensure the provision of legal assistance to all from the beginning of detention and prompt, thorough, independent and impartial

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investigation into all allegations of violations of human rights. It should prosecute perpetrators of such acts and ensure that they are punished in a manner proportionate to the seriousness of the offences committed by them, and grant effective remedies, including compensation, to the victims.

- Syrian Arab Republic, ICCPR, A/60/40 vol. I (2005) 78 at paras. 94(5) and 94(9).

(5) While welcoming the establishment of the National Committee for International Humanitarian Law, the Committee notes that it is not fully independent. Noting the delegation's statement about current plans to establish an independent national human rights institution, the Committee wishes to stress the complementary role of such an institution with respect to governmental institutions and non-governmental organizations dealing with human rights (article 2 of the Covenant).

The State party is encouraged to establish a national human rights institution that complies with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

...

(9) While noting the information provided by the State party on measures taken against some law enforcement personnel for acts of ill-treatment of prisoners, the Committee remains deeply concerned at continuing reports of torture and cruel, inhuman or degrading treatment or punishment. The Committee is also concerned that these practices are facilitated by resort to prolonged *incommunicado* detention, especially in cases of concern to the Supreme State Security Court, and by the security or intelligence services (arts. 2, 7, 9 and 10).

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

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(8) - 95(10), 95(18), 95(19) and 95(21).

(8) The Committee notes that the Covenant has not been fully incorporated into domestic law and that its provisions are not in practice invoked in courts of law unless they have been specifically incorporated by legislation (art. 2).

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The State party should guarantee the effective protection of all rights enshrined in the Covenant and ensure that they are fully respected and enjoyed by all.

(9) While welcoming the important work of the National Human Rights Commission in the promotion and protection of human rights, the Committee is concerned that many of its recommendations to the relevant authorities have not been implemented. The Committee is also concerned about the lack of sufficient resources allocated to the Commission (art. 2).

The State party should ensure that recommendations of the National Human Rights Commission are given full and serious follow-up. It should also ensure that the Commission is endowed with sufficient resources to enable it effectively to discharge all of its mandated activities in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

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

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

The State party should actively pursue the idea of establishing an independent civilian body to investigate complaints filed against law enforcement officials.

...

(18) The Committee is concerned about reports of intimidation and harassment against local and foreign journalists and media personnel as well as of defamation suits against them, originating at the highest political level. It is also concerned at the impact of the

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Emergency Decree on Government Administration in States of Emergency which imposes serious restrictions on media freedom (art. 19, para. 3).

The State party should take adequate measures to prevent further erosion of freedom of expression, in particular, threats to and harassment of media personnel and journalists, and ensure that such cases are investigated promptly and that suitable action is taken against those responsible, regardless of rank or status.

(19) While welcoming the aspiration of the State party to accept and foster a vibrant civil society, including many human rights organizations, the Committee is nevertheless concerned at the number of incidents against human rights defenders and community leaders, including intimidation and verbal and physical attacks, enforced disappearances and extrajudicial killings (arts. 19, 21 and 22).

The State party must take measures to immediately halt and protect against harassment and attacks against human rights defenders and community leaders. The State party must systematically investigate all reported instances of intimidation, harassment and attacks and guarantee effective remedies to victims and their families.

...

(21) The Committee is concerned about the significant proportion of children, often stateless or of foreign nationality, in the State party who engage in labour and, as explained by the delegation, are often victims of trafficking (arts. 8 and 24).

The State party should strengthen the enforcement of the existing legislation and policies against child labour. Victims of trafficking must be afforded adequate protection. The State party should make every effort, including preventive measures, to ensure that children who engage in labour do not work under conditions harmful to them and that they continue to have access to education...

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- Sweden, ICESCR, E/2002/22 (2001) 106 at paras. 715, 722 and 734.

715. The Committee recognizes that a number of Ombudspersons exist in the country, dealing with different aspects of human rights with a focus on discrimination issues. The Committee welcomes the creation of the office of an Ombudsperson against Discrimination due to Sexual Orientation.

...

722. The Committee regrets that the Covenant is not given full effect in the State party's legal order and therefore cannot be directly invoked before the courts.

...

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734. The Committee urges the State party to take appropriate steps to give full effect to the Covenant in its legal system, so that the rights covered by it may be directly invoked before the courts.

- Colombia, ICESCR, E/2002/22 (2001) 110 at paras. 762 and 783.

762. The Committee takes note that gender equality has stagnated and even deteriorated since 1997, exposing women to the general impoverishment of the country. The Committee regrets that the National Directorate for Women's Equity, which initially was created as a financially and administratively autonomous institution, has lost its autonomy and had its budget reduced when it was integrated into the Government to become the Presidential Advisory Office on Women's Equity.

...

783. The Committee urges the State party to take the necessary legislative and financial measures to ensure the independence of the Presidential Advisory Office on Women's Equity in order to enable it to address the serious gender issues in the country effectively.

- Algeria, ICESCR, E/2002/22 (2001) 116 at paras. 814 and 815.

814. The Committee notes with concern that no case-law on the application of the Covenant exists and that the Covenant has not been invoked before national courts.

...

815. The Committee is of the view that the various measures taken by the State party with regard to the Vienna Declaration and Programme of Action^{10/} fall short of the comprehensive national human rights plan of action called for by that document.

Notes

...

^{10/} Adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993 (A/CONF.157/24 (Part I), chap. III).

- France, ICESCR, E/2002/22 (2001) 121 at paras. 862 and 872.

862. The Committee expresses its concern that, despite the constitutional provision (art. 55) stipulating the primacy of international law over national law and the monistic principle adopted by the State party incorporating international law in the domestic legal order, the Covenant and its provisions are not considered directly applicable by some courts of law (e.g. the *Conseil d'Etat*), resulting in a dearth of court decisions in which reference is made to the Covenant and its provisions. The Committee is also concerned

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about the delegation's statement that some economic, social and cultural rights are not justiciable.

...

872. The Committee recommends that the State party provide proper training to the judiciary, prosecutors and other officials responsible for the implementation of the Covenant and its rights, to ensure that these rights are consistently enforced in courts of law.

- Croatia, ICESCR, E/2002/22 (2001) 125 at para. 887.

887. The Committee welcomes the succession of the State party to the six major international human rights treaties, including the Covenant, and the fundamental human rights conventions of ILO. The Committee notes with satisfaction that, in accordance with article 140 of the State party's revised Constitution (2001), international agreements to which the State is a party enjoy supremacy over domestic laws and can be directly applied in domestic courts. It welcomes the fact that the Covenant has in some instances been invoked in court proceedings. The Committee also welcomes the efforts being made to provide training to judges in the applicable international human rights standards. In addition, it welcomes the explicit enumeration of a number of economic, social and cultural rights in the revised Constitution.

- Czech Republic, ICESCR, E/2003/22 (2002) 25 at paras. 75 and 92.

75. The Committee regrets that the Covenant has not been given full effect in the State party's legal order and that most of the rights contained in the Covenant are not justiciable in domestic legal order, in particular, the right to adequate housing, which the State party considers as merely a declaratory non-entitlement right.

...

92. The Committee urges the State party to take appropriate steps to give full effect to the Covenant in its legal system, so that the rights covered by it may be directly invoked before the courts.

- Ireland, ICESCR, E/2003/22 (2002) 29 at paras. 126, 128, 137 and 139.

126. The Committee notes with regret that, despite its previous recommendation in 1999,^{12/} no steps have been taken to incorporate or reflect the Covenant in domestic legislation, and that the State party could not provide information on case law in which the Covenant and its rights were invoked before the courts.

...

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128. The Committee regrets that the Disability Bill does not adopt a human rights-based approach, as recommended in its previous concluding observations. Moreover, the Committee regrets that section 47 of the Disability Bill contains a clause purporting to remove the rights of people with disabilities to seek judicial redress if any of the Bill's provisions are not carried out.

...

137. Affirming that all economic, social and cultural rights are justiciable, the Committee reiterates the recommendation made in 1999^{15/} and strongly recommends that the State party incorporate economic, social and cultural rights in the proposed amendment to the Constitution, as well as in other domestic legislation. The Committee points out that, irrespective of the system through which international law is incorporated into the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee would like to draw the attention of the State party to its general comment no. 9 (1998) on the domestic application of the Covenant.

...

139. The Committee strongly recommends that the State party adopt a human rights-based approach in the Disability Bill. In particular, the Committee recommends that the clause in section 47 of the Disability Bill, which purports to deny people with disabilities the right to judicial redress, be removed.

Notes

...

^{12/} *Official Records of the Economic and Social Council, 2000, Supplement No. 2* (E/2000/22-E/C.12/1999/11 and Corr.1), chap. V, paras. 123-152.

...

^{15/} [*Official Records of the Economic and Social Council, 2000, Supplement No. 2* (E/2000/22-E/C.12/1999/11 and Corr.1), chap. V], para. 144.

See also:

- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at paras. 257 and 280.
- Benin, ICESCR, E/2003/22 (2002) 34 at paras. 163, 166, 175, 182, 185 and 194.

163. The Committee is concerned at the fact that, although the 1990 Constitution guarantees certain economic, social and cultural rights, no specific law, apart from the Labour Code of 1998, has been adopted to give effect to the rights guaranteed by the Covenant.

...

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166. The Committee deplores the inadequate action taken by the State party to combat the persistent practice of female genital mutilation, generally of young women and girls.

...

175. The Committee is concerned at the lack of a social policy on housing and the lack of low-cost housing. It notes with grave concern that rents are unaffordably high for a large sector of the population, in particular the disadvantaged and marginalized groups, and that houses are demolished without compensation. The Committee is also concerned at the growing number of persons living in the street and in sub-standard housing in shanty towns lacking all basic services.

...

182. The Committee strongly urges the State party to ensure that the Covenant is fully taken into consideration in the formulation and implementation of all measures relating to economic, social and cultural rights and that, in practical terms, legal proceedings may be brought on the basis of its provisions.

...

185. The Committee enjoins the Government to redouble its efforts to end the practice of genital mutilation, in particular by passing a law that makes the practice a punishable offence, by establishing mechanisms for the protection of women and through programmes of education and financial support for practitioners of excision who cease their activities...

...

194. The Committee recommends the State party to introduce a consistent public housing scheme, build more low-cost housing for disadvantaged and marginalized people in lower income brackets, arrange for rents for public housing to be regulated and avoid any forced evictions without compensation, and take priority measures for homeless persons and persons living in sub-standard housing in shanty towns, as indicated in the recommendations accompanying its General Comments Nos. 4 and 7.

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/2003/22 (2002) 39 at paras. 214, 227, 231 and 232.

214. The Committee deeply regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has still not been incorporated in the domestic legal order and that there is no intention by the State party to do so in the near future. The Committee reiterates its concern about the State party's position that the provisions of the Covenant, with minor exceptions, constitute principles and programmatic objectives rather than legal obligations that are justiciable, and that consequently they cannot be given direct legislative effect^{19/}.

...

227. Affirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee

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reiterates its previous recommendation made in 1997^{22/} and strongly recommends that the State party re-examine the matter of incorporation of the Covenant in domestic law. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee draws the attention of the State party to its general comment no. 9 (1998) on the domestic application of the Covenant.

...

231. The Committee strongly recommends that the State party establish a national human rights commission for England, Wales and Scotland, with a mandate to promote and protect all human rights, including economic, social and cultural rights.

232. The Committee strongly recommends the inclusion of effective protection for economic, social and cultural rights, consistent with the provisions of the Covenant, in any bill of rights enacted for Northern Ireland.

Notes

...

^{19/} [Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22-E/C.12/1997/10) chap. V], paras. 284-317.

...

^{22/} [Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22-E/C.12/1997/10) chap. V], para. 304.

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- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at paras. 259, 282 and 293.

259. The Committee is concerned that economic, social and cultural rights are not part of the mandate of the Ombudsman.

...

282. The Committee recommends that the State party provide the Ombudsman with powers to deal with all human rights issues, including economic, social and cultural rights.

...

293. The Committee calls upon the State party to take all effective measures, including the enforcement of existing legislation and the extension of national awareness campaigns, to eliminate all forms of violence and discrimination against women.
 - Slovakia, ICESCR, E/2003/22 (2002) 50 at paras. 309, 314 and 327.

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309. The Committee welcomes the amendment to article 7, paragraph 5, of the Constitution of the Slovak Republic, pursuant to which the Covenant takes precedence over the domestic law and may be invoked before the courts.

...

314. The Committee is deeply concerned about discrimination against Roma people in the fields of employment, housing, health care and education. Although the State party acknowledges this fact, the legislative and administrative measures undertaken by the State party to improve the socio-economic conditions of the Roma are still insufficient to address the problem. The Committee is also concerned about the absence of a comprehensive anti-discrimination law.

...

327. The Committee urges the State party to take concrete measures, including the adoption of a comprehensive anti-discrimination law, in accordance with article 2, paragraph 2, of the Covenant, to combat and eliminate discrimination against minority groups, in particular against Roma people.

- Poland, ICESCR, E/2003/22 (2002) 54 at paras. 350, 362, 365, 374, 377, 384 and 387.

350. The Committee welcomes the establishment in 2000 of the Ombudsman for Children responsible for monitoring children's rights in Poland.

...

355. The Committee regrets that the State party...has not yet adopted and implemented a comprehensive programme to address the problems faced by Roma communities, in particular unemployment and inadequate living standards...

...

362. The Committee is...concerned about the inadequacies in enforcing occupational safety laws and regulations in the State party, resulting in a relatively high number of accidents in the workplace.

...

365. The Committee is concerned about the rising incidence of trafficking in women for the purpose of sexual exploitation.

...

374. ...[T]he Committee draws the attention of the State party to its general comment no. 9 (1998) on domestic application of the Covenant. The Committee urges the State party to take measures to increase public awareness of the Covenant and of the possibility of invoking its provisions before the courts.

...

377. The Committee...urges the State party to...adopt a comprehensive programme to address the obstacles to the advancement of the Roma population, including measures to ensure effective remedy for cases of discrimination against Roma in employment,

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housing and health care...

...

384. The Committee reiterates its previous recommendation to the State party to intensify its efforts at ensuring that occupational safety legislation is properly implemented, especially by allocating sufficient resources to the State Labour Inspectorate and imposing effective sanctions with respect to violations of safety regulations.

...

387. The Committee further recommends that the State party take effective measures to combat trafficking in women, *inter alia*, by ensuring that those responsible for trafficking are prosecuted, and to ratify the international instruments aimed at intensifying cooperation in this field among States, including the additional Protocol to the United Nations Convention against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children...

- Georgia, ICESCR, E/2003/22 (2002) 59 at paras. 408, 412, 417, 418, 427, 431, 435 and 436.

408. The Committee is concerned about the existing gap between legislation in the field of economic, social and cultural rights and its actual implementation.

...

412. The Committee is concerned that the Public Defender is not able to function in an effective manner, owing to severe resource constraints.

...

417. The Committee expresses serious concern about the inadequacy or even lack of legislation and policies on domestic violence, rape, or sexual harassment, as well as about the *de facto* impunity with which such acts are committed. The Committee is also concerned that domestic violence is not criminalized as a specific offence.

418. The Committee is...concerned that the State party has not adopted any significant measures or policies to address the problem of trafficking in persons, particularly women.

...

427. The Committee recommends that the enforcement of legislation in the field of economic, social and cultural rights be improved and that the various plans and programmes on human rights be implemented in a consistent manner.

...

431. The Committee recommends that the Public Defender be accorded adequate resources. The Committee further suggests that the State party seek international assistance concerning the effective functioning of the Public Defender's office.

...

435. The Committee recommends that the State party implement its National Plan of

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Action for the Advancement of Women for 1998-200 and its national plan of action for combating violence against women, and that it adopt adequate legislation and policies to address and to ensure access to effective remedies concerning domestic violence, rape and sexual harassment. The Committee encourages the State party to develop programmes aimed at raising awareness of, and educating law enforcement officials, the judiciary and the general public on, these problems.

436. The Committee urges the State party to undertake and implement effective measures to combat trafficking in persons, including adequate training of law enforcement officials and the judiciary, the prosecution of perpetrators in accordance with the law, and rehabilitation programmes for victims of trafficking.

- Solomon Islands, ICESCR, E/2003/22 (2002) 65 at paras. 458, 463, 471 and 477.

458. The Committee is alarmed at the high incidence of domestic violence against women and children in the State party.

...

463. The Committee is concerned that fewer girls than boys enrol in primary schools and that there is a high drop-out rate among girls in both primary and secondary schools.

...

471. The Committee urges the State party to adopt and implement effective legislative and administrative measures to protect members of the family, particularly women and children, from domestic violence. The Committee recommends that the State party establish support services for victims of domestic violence and take steps to sensitize law enforcement officials and the general public to the gravity of this issue.

...

477. The Committee recommends that the State party take effective measures, including programmes which explicitly target parents, to eliminate gender disparity in enrolment rates both at primary and secondary education levels.

- Estonia, ICESCR, E/2003/22 (2002) 68 at paras. 486, 488, 497 and 520.

486. The Committee commends the State party for the significant steps it has taken to bring its legislation in harmony with international human rights norms and, in particular, with the provisions of the Covenant. The Committee notes with satisfaction the State party's assurances that the provisions of the Covenant have been fully incorporated into the domestic legal system and may be invoked before the courts.

...

488. The Committee welcomes the establishment in November 2001 of the Office of the Legal Chancellor, who fulfils the functions of an Ombudsman and whose mandate

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includes economic, social and cultural rights, and the efforts to make this institution easily accessible through the creation of a number of regional offices.

...

497. The Committee is...concerned about the marked difference in the wages of men and women. The Committee takes notes that, although it is possible to seek legal redress in cases of discrimination in employment and remuneration, few woman have as yet sought such relief.

...

520. The Committee...recommends that the State party intensify its efforts to ensure the right of equal remuneration for men and women for work of equal value, including through public awareness-raising campaigns. The Committee also recommends in this regard that the State party ratify the International Labour Organization Discrimination (Employment and Occupation) Convention (No. 111).

- Luxembourg, ICESCR, E/2004/22 (2003) 24 at paras. 73, 76 and 87.

73. The Committee welcomes the measures undertaken by the State party to combat trafficking in persons, child pornography and sexual exploitation of women and children.

In particular, the Committee welcomes the extraterritorial application of certain provisions of the Penal Code, allowing for the criminal prosecution of persons, both nationals and non-nationals, for sexual crimes committed abroad.

...

76. While taking note of the information provided by the State party that international treaties take precedence over national laws, the Committee regrets that the Covenant's rights have not been invoked before the courts.

...

87. The Committee recommends that effective measures be taken by the State party to ensure that legal and judicial training takes full account of the justiciability of Covenant rights and promotes the use of the Covenant as a source of law in domestic courts. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

- Brazil, ICESCR, E/2004/22 (2003) 28 at paras. 111, 125, 130, 137, 148, 150, 154 and 161.

111. The Committee notes with appreciation that the Federal Constitution adopted in 1988 incorporates a wide range of human rights, including a number of the economic, social and cultural rights enshrined in the Covenant. The Committee also takes note that under article 5 of the Constitution, the rights and guarantees in international treaties to which Brazil is party are considered part of the national law.

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...

125. The Committee is concerned that, despite the existence of constitutional and legislative provisions and administrative procedures to implement the Covenant rights, there are no effective measures and remedies, judicial or otherwise, to uphold these rights, especially with regard to the disadvantaged and marginalized groups.

...

130. In spite of the State party's successful efforts to release many workers from forced labour, the Committee is deeply concerned about the persistence of forced labour in Brazil, which is often close to slavery, particularly in the rural areas.

...

137. The Committee is deeply concerned about the high incidence of trafficking in women for the purpose of sexual exploitation.

...

148. The Committee urges the State party to take immediate remedial action to ensure that all the Covenant rights are effectively upheld and that concrete remedies, judicial or otherwise, are provided to those whose economic, social and cultural rights are infringed, especially in relation to disadvantaged and marginalized groups. In this regard, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

...

150. The Committee strongly recommends that the State party's obligations under the Covenant should be taken into account in all aspects of its negotiations with the international financial institutions to ensure that the enjoyment of economic, social and cultural rights, particularly by the most disadvantaged and marginalized groups, are not undermined.

...

154. The Committee urges the State party to implement its National Plan for the Eradication of Slave Labour and to undertake urgent measures in this regard, especially through the imposition of effective penalties.

...

161. The Committee recommends the adoption by the State party of specific legislation against trafficking in persons and its effective implementation.

- New Zealand, ICESCR, E/2004/22 (2003) 35 at paras. 184, 194, 196 and 199.

184. The Committee notes with regret the view expressed by the State party's delegation that economic, social and cultural rights are not necessarily justiciable.

...

194. Affirming the principle of the interdependence and indivisibility of all human rights, the Committee encourages the State party to reconsider its position regarding the justiciability of economic, social and cultural rights. Moreover, the Committee points

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out that the State party remains under an obligation to give full effect to the Covenant in its domestic legal order, providing for judicial and other remedies for violations of economic, social and cultural rights. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

...

196. The Committee recommends that the national Human Rights Commission take up economic, social and cultural rights as a comprehensive topic and that it ensure that those rights are duly reflected in the New Zealand Action Plan for Human Rights.

...

199. The Committee encourages the State party to take measures to increase awareness of the possibility of bringing complaints before the Employment Relations Authority or the national Human Rights Commission in cases of employment disputes.

- Iceland, ICESCR, E/2004/22 (2003) 39 at paras. 215, 221 and 230.

215. The Committee welcomes the recent court practice in the State party whereby constitutional provisions are interpreted in the light of its international obligations. The Committee also notes with appreciation references made in the report and by the delegation to judgements of the Supreme Court of Iceland in which the Covenant has been invoked.

...

221. The Committee regrets that, as stated in its concluding observations on the second periodic report of Iceland,^{8/} the State party has not given full effect to the Covenant provisions in its domestic legal order, especially by providing for judicial and other remedies for violations of economic, social and cultural rights.

...

230. The Committee reiterates its previous recommendation that, if measures are taken to incorporate treaty obligations with respect to civil and political rights in the Icelandic legal system, similar measures should be taken simultaneously in respect of economic, social and cultural rights.^{8/} In this regard, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

Notes

...

^{8/} *Official Records of the Economic and Social Council, 2000, Supplement No. 2 (E/2000/22-E/C.12/1999/11 and Corr.1), chap. IV, paras. 77-78.*

- Israel, ICESCR, E/2004/22 (2003) 42 at paras. 249, 253, 256, 257, 272 and 273.

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249. The Committee...notes with appreciation that the Supreme Court's rules of standing have been relaxed, allowing any person, regardless of citizenship, residency or other status, who contends that his or her rights have been unlawfully denied or infringed, formal access to the Court, and allowing even for an *actio popularis*. In particular, the Committee particularly appreciates that in the State party, plaintiffs seeking remedy for alleged violations of economic, social and cultural rights have access to and can make use of the judiciary system, which provides opportunities for the justiciability of the rights enshrined in the Covenant. In this regard, the Committee welcomes the information given on cases before the courts, in which reference has been made to Covenant provisions.

...

253. The Committee notes with appreciation the efforts undertaken by the State party to address the problem of trafficking and exploitation of persons, such as the criminalization of trafficking, increased penalties for trafficking of minors, and the enhanced cooperation between government agencies to combat trafficking with a victim-sensitive approach.

...

256. Despite the above-mentioned positive measures (para. 249), the Committee reiterates its concern that the Covenant has not been incorporated in the domestic legal order, and therefore cannot be directly invoked before the courts.

257. The Committee regrets that the judgement of the *Ka'adan* case has still not been implemented.

...

272. The Committee urges the State party to undertake steps towards the incorporation of the Covenant and its provisions in the domestic legal order. It refers the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

273. The Committee urges the State party to undertake steps to facilitate the implementation of the judgement in the *Ka'adan* case.

- Republic of Moldova, ICESCR, E/2004/22 (2003) 49 at paras. 301, 302, 306, 320, 323 and 328.

301. The Committee regrets that national courts have so far not made reference to the Covenant in any of their rulings.

302. The Committee notes with concern that the State party faces serious problems of corruption, which have a negative effect on the full exercise of the rights covered by the Covenant. The Committee is also concerned that low salaries of civil servants and judges may obstruct the effective implementation of measures to combat corruption.

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...

306. The Committee is concerned that the minimum wage in the State party is not sufficient to provide workers with a decent living for themselves and their families in contravention of articles 7 and 11 of the Covenant.

...

320. The Committee requests the State party to clarify in its second periodic report whether individuals within the State party's territory may invoke the rights enshrined in the Covenant before the domestic courts and to provide relevant case law, if available. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant. Moreover, the Committee recommends that the State party take measures to raise awareness of the Covenant and of the possibility of invoking its provisions before the courts, among the judiciary and the public at large.

...

323. The Committee urges the State party to strengthen its efforts to combat corruption, including by ensuring the effective functioning of the Anti-Corruption Committee and to work towards ensuring better remuneration for civil servants and judges.

...

328. The Committee urges the State party to increase its efforts to establish a national minimum wage that would be sufficient to ensure an adequate standard of living for workers and their families according to articles 7 and 11 of the Covenant. Moreover, the State party should introduce a mechanism to determine and regularly adjust the minimum wage in proportion to the cost of living as envisaged in the draft legislation on the subsistence level.

- Yemen, ICESCR, E/2004/22 (2003) 55 at paras. 357 and 376.

357. The Committee is concerned about the lack of measures to combat sexual and domestic violence as well as the lack of legislation to criminalize such violence.

...

376. The Committee calls upon the State party to adopt and implement the necessary measures to combat domestic and sexual violence and to provide adequate protection for victims of such practices.

- Guatemala, ICESCR, E/2004/22 (2003) 59 at paras. 402, 404, 413, 420, 425 and 431.

402. The Committee is concerned by the insufficient progress made by the State party towards the effective implementation of the peace agreements of 1996 (including the Comprehensive Agreement on Human Rights, the Agreement on Social and Economic Aspects and the Agrarian Situation) which has led to persistent serious problems, such as

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violence at the national level, intimidation, corruption, impunity and lack of constitutional, fiscal, educational and agrarian reforms. All these have impacted adversely on the full realization of economic, social and cultural rights enshrined in the Covenant, particularly with regard to indigenous peoples.

...

404. The Committee is concerned about the *de facto* inequality between women and men, which is perpetuated by traditional prejudices and social conditions, in spite of an important number of legal instruments adopted by the State party.

...

413. The Committee is concerned about the extent of the problem of violence against women in Guatemalan society, both within and outside the family, and its implication for both the physical and mental health of women and children. The Committee is also concerned that the Penal Code does not consider domestic violence as a crime.

...

420. The Committee recommends that the State party make every possible effort, including through international assistance, to provide adequate follow-up to various issues contained in the peace agreements of 1996, which, following over 30 years of civil unrest, laid the foundation for national reconciliation and for the promotion of human rights.

...

425. The Committee urges the State party to verify and ensure the fulfilment of labour legislation concerning occupational health and safety conditions, including through regular inspections.

...

431. The Committee urges the State party to combat violence against women, including through the effective application of the Act on the Prevention, Punishment and Eradication of Domestic Violence and awareness-raising campaigns designed to combat negative traditional practices and prejudices and their effects and consequences. In this regard, the Committee urges the State party to amend the Penal Code by including domestic violence as a crime...

- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 455, 456, 460, 461, 464-466, 468, 474, 483, 484, 488, 489, 492-494 and 496.

455. The Committee notes the statement of the State party's delegation that any former citizen of the Soviet Union living in the country can exchange their old Soviet passports for new Russian Federation ones without any difficulty. However, the Committee is concerned about reports that registration and recognition of citizenship have been denied to some groups, particularly the Meskhetians living in Krasnodar Krai.

456. The Committee remains concerned about gender inequality in the State party,

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particularly with regard to discrimination in employment, in the family and in political representation.

...

460. The Committee remains concerned about the low level of wages in the State party, with an estimated 32.8 per cent of workers earning wages equal to or below the subsistence level. The Committee notes that the situation is aggravated by the persistent problem of wage arrears. The low level of the minimum wage is also a cause of concern since it remains well below the minimum subsistence level and is inadequate to provide workers with a decent living for themselves and their families (arts. 7 and 11 of the Covenant).

461. The Committee remains concerned about the high incidence of serious accidents in the workplace in the State party.

...

464. The Committee remains concerned about the inadequate amounts paid in pensions and social benefits, while noting that the problem of arrears has been addressed.

465. The Committee is very concerned about the high incidence of trafficking in persons in the State party and about the lack of reliable statistics on the number of people trafficked and of information on cases where persons have been prosecuted under existing anti-trafficking legislation.

466. The Committee remains concerned about the high incidence of domestic violence and the fact that victims of domestic violence are not adequately protected under existing legislation.

...

468. The Committee remains concerned about the problem of street children in the major cities of the State party. The Committee is also deeply concerned about the growing number of orphaned children and children deprived of parental care.

...

474. The Committee notes that the State party lacks federal legislation on the rights of patients concerning, *inter alia*, professional ethics and redress for medical errors.

...

483. The Committee urges the State party to take effective measures to ensure that no one will be deprived of their legal status and enjoyment of rights as a consequence of the expiry of Soviet passports on 31 December 2003. The Committee also calls upon the State party to ensure that the authorities in Krasnodar Krai legalize the residence of Meskhetians and members of other ethnic groups who have reportedly been denied registration.

484. The Committee recommends that the State party strengthen its efforts to promote gender equality and encourages the adoption of the draft federal law on State guarantees

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of equal rights, freedoms and opportunities for men and women in the Russian Federation currently before the Duma.

...

488. The Committee urges the State party to take effective measures to raise wages, prevent wage arrears, and ensure the implementation of article 133 of the Labour Code, which, in line with the Covenant, stipulates that the minimum wage must not be lower than the worker's minimum subsistence level.

489. The Committee urges the State party to ensure that adequate funds are allocated for the prevention of accidents in the workplace and to strengthen the resources and powers of the labour inspectorate so as to ensure that sanctions are imposed on employers who fail to observe safety regulations.

...

492. The Committee urges the State party to ensure that under the new pensions system, introduced by the Federal Law of 1 January 2002, the basic component of pensions is raised to the minimum subsistence level. In view of the fact that the realization of this goal may take time, owing to limited resources, the Committee urges the State party to give priority to raising minimum pension levels and to ensuring that social benefits are targeted to the families most in need.

493. The Committee calls upon the State party to ensure effective implementation of existing anti-trafficking legislation. It also encourages the State party to proceed with the adoption of proposed legislative amendments and of the draft act on combating the trafficking of people which aim at providing more effective protection for victims and ensuring the prosecution of traffickers. Moreover, the State party should ensure the availability of accessible crisis centres where victims of trafficking can receive assistance.

494. The Committee calls upon the State party to intensify its efforts to combat domestic violence by enacting specific legislation criminalizing it and providing training for law enforcement personnel and judges regarding the serious and criminal nature of domestic violence. Moreover, the Committee urges the State party to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counselling.

...

496. The Committee urges the State party to further strengthen measures to prevent child neglect and to ensure adequate assistance and social rehabilitation for neglected or abandoned children. The State party should take effective measures to deal with the root causes of neglect and abandonment, particularly by increasing assistance rendered to families with children, including by increasing the levels of family benefits.

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- Democratic People's Republic of Korea, ICESCR, E/2004/22 (2003) 71 at paras. 518, 519, 525, 527, 528, 537, 541, 545, 547 and 548.

518. The Committee on Economic, Social and Cultural Rights is concerned, as is the Human Rights Committee in its own concluding observations,^{29/} about the constitutional and other legislative provisions, particularly article 162 of the Constitution, that seriously compromise the impartiality and independence of the judiciary and have an adverse impact on the protection of all human rights guaranteed under the Covenant.

519. The Committee notes with concern that no case law on the application of the Covenant exists and that the Covenant has not been directly invoked before national courts, although the State party declares that the provisions of international human rights instruments, though not yet incorporated into its domestic law, are directly applied by the courts.

...

525. The Committee notes with concern that the legislation of the Democratic People's Republic of Korea establishes a single trade-union structure, which is controlled by the ruling party. It notes also that the exercise of the right to form trade unions is dependent upon an authorization given by the State security organs. Furthermore, the Committee notes with concern that domestic legislation does not recognize the right to strike.

...

527. The Committee is concerned about information according to which some segments of the population are still suffering hardship because of the period of reconstruction and reform and may be in need of extra support from the public authorities.

528. The Committee notes with concern that there is no specific provision in the legislation of the State party that criminalizes and punishes domestic violence.

...

537. The Committee recommends that the constitutional and legislative provisions that may compromise or diminish the independence and impartiality of the judiciary be immediately reviewed in order to guarantee its crucial role in the protection of rights covered by the Covenant.

...

541. The Committee recommends that the State party join ILO as a full member and consequently ratify the main ILO conventions in due course. In order to facilitate the accession, the Committee recommends that the State party speed up the necessary reform of its legislation with a view to fulfilling the criteria of the tripartite representation system in ILO.

...

545. The Committee recommends that the State party review its domestic legislation to bring it in line with the provisions of article 8 of the Covenant with regard to trade union rights, including the right to form independent trade unions and the right to strike.

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...

547. The Committee invites the State party to explore the possibility of increasing in due course the budgetary allocations for social expenditure, as well as public assistance for people in need, and of enabling persons looking for employment, particularly women, to find jobs on the territory of the Democratic People's Republic of Korea.

548. The Committee recommends that the State party amend its legislation in order to include specific provisions that can be used as grounds to fight domestic violence.

Notes

...

29/ See *Official Records of the General Assembly, Fifty-sixth session, Supplement No. 40 (A/56/40)*, para. 86.

- Lithuania, ICESCR, E/2005/22 (2004) 18 at paras. 74, 80, 82, 87, 96, 102, 104 and 109.

74. Despite the constitutional provision (third part of article 138) stipulating the primacy of international law and that the Covenant may be invoked before domestic courts, the Committee regrets the lack of information on specific decisions of domestic courts where reference has been made to the Covenant and its provisions, which indicates a lack of knowledge among the population about the Covenant and the possibility of invoking it directly before the courts.

...

80. The Committee is deeply concerned about the increase in the number of occupational accidents in the State party since 2001.

...

82. The Committee expresses its concern that basic pensions are insufficient to ensure an adequate standard of living. The absence of a system of indexing basic pensions to the consumer price index and to the minimum subsistence level is also a cause of concern.

...

87. The Committee is concerned about the high incidence of domestic violence and the lack of shelters for battered women. The Committee is also concerned that victims of domestic violence are not adequately protected under existing legislation.

...

96. The Committee recommends that the State party take measures to raise awareness of the Covenant and of the possibility of invoking its provisions before the courts among the public at large and the judiciary.

...

102. The Committee urges the State party to take effective measures to prevent

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occupational accidents, including by strengthening the labour inspectorate in order to ensure that employers who fail to observe safety regulations are sanctioned.

...

104. The Committee urges the State party to put in place a system of indexing the level of basic pensions reflecting changes in the cost of living, and to ensure that basic pensions are sufficient to provide for an adequate standard of living. The Committee encourages the State party to proceed with its plans to ratify ILO Convention No. 102 (1952) concerning Minimum Standards of Social Security and to consider ratifying ILO Convention No. 118 (1962) concerning Equality of Treatment of Nationals and Non-Nationals in Social Security.

...

109. The Committee calls upon the State party to intensify its efforts to combat domestic violence. In particular, the Committee encourages the State party to consider enacting specific legislation criminalizing domestic violence and affording effective protection to victims. The State party should also take effective measures to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence. Moreover, the Committee urges the State party to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counselling.

- Greece, ICESCR, E/2005/22 (2004) 23 at paras. 124, 131, 136, 139, 150, 152, 153, 157 and 160.

124. The Committee notes with appreciation that, in accordance with article 28, paragraph 1, of the Greek Constitution, the Covenant takes precedence over any contrary provision of the domestic law and that the Constitution, as revised in 2001, guarantees a wide range of social rights.

...

131. While acknowledging the State party's efforts to promote the social integration of Greek Roma, the Committee remains deeply concerned about the persistent discrimination against Roma people in the fields of housing, health and education. It is particularly concerned about reported instances of police violence against Roma, sweeping arrests, and arbitrary raids of Roma settlements by the police.

...

136. While noting that the State party has established the National Observatory on Violence Against Women, as well as two reception centres for victims of domestic violence in Athens and Piraeus, the Committee expresses its concern about the high incidence of domestic violence and marital rape, which often remain unreported for

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cultural reasons and the economic dependency of wives on their husbands.

...

139. The Committee is concerned that, according to information received, an alleged approximate number of 5,800 children below the minimum working age of 15 years illegally work in the streets.

...

150. The Committee recommends that the State party promote awareness of the individual entitlements under the Covenant and of the justiciable elements of all rights contained therein as defined in the Committee's general comments, among members of the legal professions, in particular judges and attorneys, as well as among the general public.

...

152. The Committee urges the State party to investigate reported instances of police violence against the Roma and alleged arbitrary raids of Roma settlements, and to bring perpetrators to justice. It further recommends that the State party continue its efforts to train police officers on international human rights standards and to raise awareness of the dimensions of discrimination against the Roma among local authorities.

153. The Committee recommends that the State party harmonize its relevant constitutional provisions with its obligation to guarantee that the Covenant rights will be exercised without discrimination, based on the prohibited grounds as enshrined in the Covenant.

...

157. The Committee urges the State party to proceed with the adoption of its draft legislation criminalizing domestic violence and marital rape by introducing specific provisions into the criminal code, to strengthen its assistance to victims of domestic violence and marital rape, for example, by creating more guest houses and reception centres, to sensitize law enforcement and medical personnel, as well as the public at large, to the criminal nature of such acts...

...

160. The Committee recommends that, in compliance with article 10 of the Covenant, the State party institute criminal proceedings and takes other effective measures against parents or other persons who may be exploiting children below the minimum working age of 15 years illegally working in the streets. The State party should also take measures to ensure regular school attendance by these children, as provided for by article 13 of the Covenant.

- Kuwait, ICESCR, E/2005/22 (2004) 29 at paras. 181, 189, 200 and 208.

181. The Committee is concerned, as other human rights treaty bodies, about the lack of clarity regarding the primacy of the Covenant over conflicting or contradictory

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national laws, and its direct applicability and justiciability in national courts. In this regard, the Committee notes that there is no case law in Kuwait on the application of the Covenant.

...

189. The Committee is deeply concerned about the unfair terms of employment and working conditions of migrant workers.

...

200. The Committee urges the State party to ensure that economic, social and cultural rights are incorporated into domestic legislation and made justiciable. The Committee points out that, irrespective of the system whereby international law is incorporated in the domestic legal order, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, it draws the attention of the State party to the Committee's general comment No. 9 (1998) on domestic application of the Covenant.

...

208. The Committee urges the State party to take effective measures to improve the terms of employment and the working conditions of migrant workers, *inter alia*, by strengthening the financial and human resources of the labour inspectorate in order to ensure that employers who fail to observe the terms of employment and the safety regulations are sanctioned. The Committee recommends that the State party ratify ILO Convention Nos. 122 (1964) concerning Employment Policy and 174 (1993) concerning the Prevention of Major Industrial Accidents.

- Ecuador, ICESCR, E/2005/22 (2004) 39 at paras. 270, 278, 284, 291, 301, 307, 316 and 325.

270. The Committee notes with appreciation that the new Constitution of Ecuador, adopted in 1998, declares that the State party is a multicultural and multi-ethnic State, and it incorporates a wide range of human rights, including a number of economic, social and cultural rights enshrined in the Covenant.

...

278. The Committee is concerned that, although the Constitution recognizes the rights of indigenous communities to hold property communally and to be consulted before natural resources are exploited in community territories, these rights have regrettably not been fully implemented in practice. The Committee is deeply concerned that natural extracting concessions have been granted to international companies without the full consent of the communities concerned. The Committee is also concerned about the negative health and environmental impacts of natural resource extracting companies' activities at the expense of the exercise of land and culture rights of the affected

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indigenous communities and the equilibrium of the ecosystem.

...

284. The Committee is concerned about the insufficient enforcement of health and safety regulations for workers in the State party, particularly in small mines and in banana plantations, and about the high number of occupational accidents. The Committee is also concerned that labour inspections are not carried out regularly, especially in rural areas.

...

291. The Committee is concerned that domestic violence is widespread and does not constitute a criminal offence in the State party. The Committee is also concerned by the narrow definition of rape as a criminal offence in the Ecuadorian Criminal Code.

...

301. The Committee strongly urges the State party to ensure that indigenous people participate in decisions affecting their lives. The Committee particularly requests that the State party consult and seek the consent of the indigenous people concerned prior to the implementation of natural resources-extracting projects and on public policy affecting them, in accordance with ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries. The Committee strongly recommends that the State party implement legislative and administrative measures to avoid violations by transnational countries of environmental laws.

...

307. The Committee urges the State party to ensure that its existing legislation in respect of the occupational health and safety of workers is fully implemented and that the labour inspection system is strengthened. The Committee also urges the State party to adopt measures to protect workers from the occupational hazards resulting from the use of toxic and other dangerous substances in the banana-growing and small mines sectors.

...

316. The Committee urges the State party to take effective measures to combat domestic violence, including through the effective application of the existing laws and awareness-raising campaigns. It also strongly urges the State party to amend its Criminal Code with the view to redefining the crime of rape to reflect international standards and to protect women and children.

...

325. The Committee recommends that the State party take action to ensure that all the Covenant rights are effectively upheld and that concrete remedies, judicial or otherwise, are provided to those whose economic, social and cultural rights are infringed, especially in relation to the disadvantaged and marginalized groups. In this regard, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

- Malta, ICESCR, E/2005/22 (2004) 45 at paras. 339, 346, 348, 355, 364 and 366.

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339. The Committee regrets that the Covenant has not been incorporated into domestic law and therefore cannot be directly invoked before the domestic courts.

...

346. The Committee is concerned that the Industrial Relations Act unduly restricts the right to strike by providing for a compulsory arbitration procedure in industrial labour disputes.

...

348. While noting that various forms of assistance are provided to victims of domestic violence, the Committee is concerned that domestic violence is currently not defined in law as a specific crime, which makes it more difficult for victims of violence to claim their rights.

...

355. The Committee recommends that the State party reconsider the matter of incorporation of the Covenant into domestic law. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 (1998) on domestic application of the Covenant.

...

364. The Committee encourages the State party to review the legislation on industrial labour disputes with a view to removing the compulsory arbitration procedure, in conformity with the observations made in 2002 by the ILO Committee of Experts on the Application of Conventions and Recommendations, with reference to ILO Convention No. 87 (1948) concerning Freedom of Association and Protection of the Right to Organise.

...

366. The Committee encourages the State party to expedite the adoption of the Domestic Violence Bill currently under consideration.

- Denmark, ICESCR, E/2005/22 (2004) 49 at paras. 391, 397 and 404.

391. The Committee regrets that there is no legal provision in the State party's domestic legal order specifically criminalizing domestic violence, particularly against women.

...

397. The Committee welcomes the newly established mechanism within the Danish Institute for Human Rights to receive complaints from individuals in cases of discrimination based on race and encourages the State party to continue to take effective measures to strengthen the work of this Institute, *inter alia* through the allocation of adequate resources, and to consider expanding its competence so as to enable it to receive

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complaints of violations of a wider range of human rights, including economic, social and cultural rights.

...

404. The Committee...encourages the State party to consider enacting specific legislation to criminalize domestic violence and to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence.

- Italy, ICESCR, E/2005/22 (2004) 54 at paras. 424, 427, 440, 441 and 446.

424. The Committee is concerned that the State party still considers that some economic, social and cultural rights, including the right to adequate housing, are not justiciable since they entail financial burdens upon the State. In this regard, the Committee notes the scarcity of court decisions in which the Covenant has been invoked.

...

427. Despite the measures adopted by the State party to combat racism and discrimination, the Committee remains concerned at the limited implementation of such measures, in particular at the fact no regional or local bodies have been established to monitor racism and discrimination, as envisaged in article 44 of Legislative Decree No. 286 of 25 July 1998.

...

440. Affirming the principle of the interdependence and indivisibility of all human rights, the Committee encourages the State party to reconsider its position regarding the justiciability of economic, social and cultural rights. Moreover, the Committee considers that the State party remains under an obligation to give full effect to the Covenant in its domestic legal order, providing for judicial and other remedies for violations of all economic, social and cultural rights. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 (1998) on domestic application of the Covenant.

441. The Committee recommends that the State party provide appropriate training to the judiciary, prosecutors and other officials responsible for the implementation of the economic, social and cultural rights enshrined in the Covenant to ensure that those rights are consistently enforced in courts of law.

...

446. The Committee recommends that the State party effectively implement the legislation and programmes adopted to combat racism and discrimination, including through the establishment of monitoring bodies in the whole territory, as envisaged in article 44 of Legislative Decree No. 286, providing them with adequate human and financial resources.

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- Azerbaijan, ICESCR, E/2005/22 (2004) 59 at paras. 478, 502 and 503.

478. The Committee is concerned about the lack of independence of the judiciary and the persistence and the extent of corruption in the State party, and once again stresses the importance of an independent judiciary for the enjoyment of all human rights, including economic, social and cultural rights, and the availability of effective remedies in case of violation.

...

502. The Committee urges the State party to ensure that legal and judicial training takes full account of the justiciability of the rights contained in the Covenant and promotes the use of the Covenant as a source of law in domestic courts.

503. The Committee strongly urges the State party to continue to take all necessary measures to ensure the independence and integrity of the judiciary and to combat corruption.

- Chile, ICESCR, E/2005/22 (2004) 67 at paras. 539, 540, 556, 557, 559 and 560.

539. The Committee notes that the amendment of article 5 of the Constitution in 1989 extends the range of rights embodied in article 19 of the Constitution to include rights guaranteed by international treaties to which Chile is party. However, the Committee is concerned that some economic, social and cultural rights, including the right to housing, are not considered justiciable in the State party. In this regard the Committee notes the scarcity of case law in which the rights of the Covenant have been invoked before and directly applied by domestic courts.

540. The Committee notes with concern the lack of constitutional recognition of indigenous peoples in the State party and that indigenous peoples, despite the existence of various programmes and policies to improve their situation, remain disadvantaged in the enjoyment of their rights guaranteed by the Covenant. It also regrets that the State party has not ratified ILO Convention No. 169 (1989) concerning indigenous and tribal peoples, and that unsettled claims over indigenous lands and national resources remain a source of conflict and confrontation.

...

556. The Committee recommends that the State party continue its efforts to give full effect to the Covenant in domestic law... In this respect, it draws the attention of the State party to the Committee's General Comment No. 9 (1998) on domestic application of the Covenant. The State party should ensure that judicial training take full account of the justiciability of Covenant rights and take measures to increase awareness of the possibility of invoking its provisions before the courts.

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557. The Committee recommends that the State party ensure the existence of an effective legal and institutional framework for the promotion and protection of all the rights of the Covenant.

...

559. The Committee recommends that the State party include recognition of its indigenous peoples in the Constitution, ratify ILO Convention No. 169 (1989), and continue to strengthen its efforts to ensure the effective enjoyment by indigenous people of their economic, social and cultural rights.

560. The Committee recommends that the State party fully take into consideration the recommendations made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in his report on his mission to Chile (see E/CN.4/2004/80/Add.3) on the implementation of the New Deal Policy with Indigenous Peoples for 2004-2010, namely that the Land Fund be substantially increased; that efforts to recover indigenous lands be strengthened, especially in Mapuche areas; and that conditions of rural indigenous people be improved, especially in the health and educational sectors.

- Zambia, ICESCR, E/2006/22 (2005) 19 at paras. 76, 80 and 102.

76. The Committee welcomes the establishment in 2003 of the Zambia police services sex crimes unit to deal with cases of sexual violence, spouse battery and sexual abuse.

...

80. The Committee regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has not yet been fully incorporated in the domestic legal order.

...

102. Reaffirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee strongly recommends that the State party incorporate the International Covenant on Economic, Social and Cultural Rights into its domestic law. The Committee points out that, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.

- China, ICESCR, E/2006/22 (2005) 25 at paras. 153, 154, 160, 171, 182, 183 and 190.

153. The Committee is deeply concerned about the insufficient implementation of existing labour legislation in the State party that has resulted in overall poor working

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conditions, including excessive working hours, lack of sufficient rest breaks and hazardous working conditions. The Committee notes with concern that the problem is especially acute for migrant workers. The Committee is also alarmed by the high incidence of serious occupational accidents in the State party, particularly in the mining sector.

154. The Committee is concerned that the low level of wages, particularly in rural areas and in the west of the country is insufficient to provide a decent standard of living for workers and their families. The Committee notes that the situation is aggravated by the persistent problem of wage arrears, especially in the construction sector.

...

160. The Committee is concerned about the reports of forced evictions and insufficient measures to provide compensation or alternative housing to those who have been removed from their homes in the context of urban development projects as well as of rural development schemes such as the Three Gorges Project. The Committee is concerned about the number of forced evictions and demolitions that have occurred in anticipation of the 2008 Olympic Games to be hosted by the State party. The Committee further expresses concern about the lack of effective consultations and legal redress for persons affected by forced evictions and demolitions, including those of historic structures, buildings and homes in Lhasa, Tibet. The Committee also regrets that insufficient information was provided on the extent and causes of homelessness in the State party.

...

171. The Committee urges the State party to ensure that legal and judicial training takes full account of the justiciability of the rights contained in the Covenant and promotes the use of the Covenant as a source of law in domestic courts. The Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant...

...

182. The Committee urges the State party to take immediate steps to ensure effective and equal application of its current labour legislation for the protection of the rights of all workers, including migrant workers, to just and favourable conditions of work as enshrined in article 7 of the Covenant. The Committee further recommends that the State party ensure the right to decent work and to provide sufficient resources to the labour inspectorate to enable regular and independent inspections of safety and health conditions in all sectors and to ensure that employers who fail to observe safety regulations are duly sanctioned. In this connection, the Committee recommends that the State party consider ratifying ILO Convention No. 81 concerning Labour Inspection in Industry and Commerce.

183. The Committee urges the State party to continue to take necessary measures to ensure that the minimum wage enables workers and their families to enjoy an adequate

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standard of living and that the minimum wage standard is effectively enforced, particularly in rural areas and in western areas. The Committee further encourages the State party to establish a wage enforcement mechanism that periodically adjusts minimum wages to the cost of living, facilitate the redress of wage claims and take sanctions against employers who owe wages and overtime pay and impose fines and penalties on their workers.

...

190. The Committee recommends that the State party take immediate measures to enforce laws and regulations prohibiting forced evictions and ensure that persons evicted from their homes be provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on the right to adequate housing (art.11, para. 1 of the Covenant): forced evictions. The Committee also recommends that, prior to implementing development projects, the State party should hold open, effective and meaningful consultations with affected residents. In this connection, the Committee wishes to draw the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing (art. 11, para.1 of the Covenant)...

- China (Macao Special Administrative Region), ICESCR, E/2006/22 (2005) 38 at paras. 232, 233, 241 and 251.

232. The Committee welcomes the assurance that the Covenant may be directly invoked before domestic courts in the Macao Special Administrative Region, and that there have been specific decisions of domestic courts in which reference has been made to the Covenant and its provisions.

233. The Committee welcomes the assurance provided by the Macao Special Administrative Region that the Office of the Ombudsman has the mandate to receive complaints on violations of economic, social and cultural rights.

...

241. The Committee is concerned about the increasing incidence of domestic violence in the Macao Special Administrative Region and the irregular protection given to victims of domestic violence under existing legislation.

...

251. The Committee calls upon the Macao Special Administrative Region to intensify its efforts to combat domestic violence. In particular, the Committee encourages the Macao Special Administrative Region to consider enacting specific legislation criminalizing domestic violence and affording effective protection to victims. The Committee also urges the Macao Special Administrative Region to take effective measures to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence. Moreover, the Committee urges the Macao

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Special Administrative Region to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counselling.

- Serbia and Montenegro, ICESCR, E/2006/22 (2005) 41 at paras. 264, 270, 285, 298 and 312.

264. The Committee notes with appreciation that, in accordance with article 16 of the Constitutional Charter (2003) of the State Union of Serbia and Montenegro, the Covenant takes precedence over the law of Serbia and Montenegro and that of the Republics, and that the Charter on Human and Minority Rights and Civil Liberties protects many economic, social and cultural rights, including special rights of members of national minorities.

...

270. The Committee regrets the absence of case law on the application of the Covenant by Serbian and Montenegrin courts.

...

285. The Committee is deeply concerned about the high numbers of trafficked women and children for purposes of sexual exploitation and forced labour, as well as about reported incidents of police involvement.

...

298. The Committee urges the State party to ensure that the provisions of the Covenant are given effect by its domestic courts and that legal and judicial training takes full account of the justiciable elements of all Covenant rights, as defined in the Committee's general comments, and promotes the use of the Covenant as a domestic source of law. The Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant...

...

312. The Committee urges the State party, in addition to the recent legislative measures to combat trafficking in persons, to prosecute and punish perpetrators and corrupted law enforcement officials involved in trafficking, to provide medical, psychological and legal support to victims, to raise awareness about the dimension of the crime among law enforcement officials...

- Norway, ICESCR, E/2006/22 (2005) 48 at paras. 331 and 350.

331. The Committee welcomes the adoption of the Human Rights Act of 21 May 1999, which incorporated the Covenant into domestic law, stipulating in section 3 that the Covenant takes precedence over any other legislative provisions that conflict with it.

...

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350. In the light of the 2001 Norwegian Supreme Court ruling in the *KLR case*, which states that international treaties that have been incorporated into national legislation can only be directly applied when it is possible to derive concrete rights and duties from their provisions, the Committee reaffirms the principle of the interdependence and indivisibility of all human rights and that all economic, social and cultural rights are justiciable. It urges the State party to ensure that all the provisions of the Covenant are given effect by its domestic courts. In this regard, the Committee refers the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

CEDAW

- Fiji, CEDAW, A/57/38 part I (2002) 9 at paras. 46 and 47.

46. The Committee expresses concern that the Constitution of 1997 does not contain a definition of discrimination against women. The Committee notes the absence of effective mechanisms to challenge discriminatory practices and enforce the right to gender equality guaranteed by the Constitution in respect of public officials and non-State actors. The Committee is concerned that the Convention is not specified in the mandate of the Human Rights Commission, and that it is not assured funds to continue its work.

47. The Committee recommends that proposed constitutional reform should address the need to incorporate a definition of discrimination. The Committee urges the State party to include a clear procedure for enforcement of fundamental rights and enact an equal opportunities law to cover the actions of non-State actors. The Committee also recommends that the mandate of the Human Rights Commission be expanded to include the Convention, and that the Commission be provided with adequate resources from State funds.

- Estonia, CEDAW, A/57/38 part I (2002) 13 at paras. 87, 89, 90 and 98.

87. The Committee expresses its concern that, although the Constitution recognizes that everyone is equal before the law and contains a prohibition of discrimination on the ground of sex, Estonian law does not contain a specific definition of discrimination against women modelled on article 1 of the Convention, which prohibits both direct and indirect discrimination.

...

89. While welcoming the fact that, in accordance with articles 3 and 123 of the Constitution, the Convention is integrated into domestic legislation and takes precedence over such legislation, the Committee is concerned that there is still a lack of familiarity

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among the judiciary, law enforcement agents and women themselves about the opportunities for the application of the Convention in domestic decision-making.

90. Acknowledging the effort already made with regard to human rights education, including human rights of women, and the transparency and participatory nature of the law making process, the Committee recommends a review of law school curricula and the development of continuing education programmes for judges and lawyers that include the application of the Convention at the domestic level. It also recommends that awareness-raising campaigns addressed to women be undertaken to allow them to avail themselves of the legal remedies that assist them...

...

98. The Committee urges the State party to place high priority on comprehensive 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 its general recommendation 19 on violence against women, the Committee calls upon the State party 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. It recommends that measures be taken to ensure that public officials, especially law enforcement officials, the judiciary, the medical professions and social workers, are fully sensitized to all forms of violence against women. The Committee invites the State party to undertake awareness-raising measures, including a campaign of zero tolerance, to make such violence socially and morally unacceptable. It recommends the introduction of a specific law prohibiting domestic violence against women, which would provide for protection and exclusion orders and access to legal aid. The Committee also urges the State party to amend the Criminal Code in order explicitly to define the offence of rape as sexual intercourse without consent.

- Trinidad and Tobago, CEDAW, A/57/38 part I (2002) 19 at paras. 141, 142, 151 and 152.

141. The Committee notes with concern that, despite provisions in the Constitution, laws exist in the State party which may allow for discrimination against women.

142. The Committee recommends that an inventory be made of the laws that discriminate against women, with a view to their revision, amendment or repeal.

...

151. The Committee is concerned that, despite high educational qualifications, women continue to be underpaid in every sector of employment, except the State employment sector. It is also concerned about the consequences of gender stereotyping in curricula and the impact of the fact that girls take traditional "female" courses and boys traditional

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"male" courses on women's employment options and income. The Committee is also concerned about the lack of specific legislation prohibiting sexual harassment in the workplace and providing a remedy for victims of sexual harassment.

152. The Committee encourages the State party to analyse the lack of correlation between the high level of education attained by women and their income levels; it urges the State party to implement curriculum reform and the revision of textbooks in order to combat traditional attitudes towards women and to help to create an enabling environment for women's presence in high-level and well-paid positions. It also recommends that the State party avail itself of existing research and practice with regard to equal pay for work of equal and comparable value in order to overcome inequality in pay. The Committee further recommends that sexual harassment in the workplace, including in the private sector, should be penalized, and remedies provided for those affected.

- Uruguay, CEDAW, A/57/38 part I (2002) 23 at paras. 180, 186, 187, 206 and 207.

180. The Committee takes note of the fact that the Constitution guarantees the protection of the rights of women and men, as individuals and as groups, and that reference is made in particular to the right of *amparo*.

...

186. The Committee is concerned that, despite the existence of Act 16,045 of June 1989, which prohibits discrimination on grounds of sex, the Convention has not been incorporated into domestic legislation. In particular, it regrets that article 1 of the Convention, which defines "discrimination against women" is not part of Uruguayan legislation.

187. The Committee recommends that the State party give further consideration to the incorporation of the Convention into domestic legislation. It points particularly to the importance of the incorporation of article 1 of the Convention...

...

206. The Committee is concerned that there is limited awareness, including among legal and law enforcement personnel, of the provisions of the Convention and the procedures available under its Optional Protocol.

207. The Committee recommends that educational programmes on the Convention, the Optional Protocol and women's rights be introduced, in particular for, the judiciary, law enforcement officials and lawyers. The Committee also recommends that additional steps be taken to increase the number of women occupying high positions in the judiciary and law-enforcement agencies.

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See also:

- Trinidad and Tobago, CEDAW, A/57/38 part I (2002) 19 at paras. 139 and 140.
- Iceland, CEDAW, A/57/38 part I (2002) 27 at paras. 235 and 236.

- Iceland, CEDAW, A/57/38 part I (2002) 27 at paras. 237 and 238.

237. The Committee is concerned that the decisions of the Complaints Committee on Equal Status are not binding, *inter alia*, in cases where government agencies violate the law.

238. The Committee recommends that the State party consider strengthening the enforcement mechanisms of the Complaints Committee, and, in particular, provide that its decisions have binding force.

- Sri Lanka, CEDAW, A/57/38 part I (2002) 31 at paras. 274, 275 and 284-287.

274. The Committee expresses its concern at the contradiction between the constitutional guarantees of fundamental rights and the existence of laws that discriminate against women. It is also concerned that constitutional provisions on fundamental rights do not create accountability for the actions of non-State actors and the private sector, and the fact that there is no opportunity for judicial review of legislation pre-dating the Constitution. The Committee is also concerned at the existence of discriminatory legislation, such as the Land Development Ordinance, and the provisions allowing for Muslim personal law, which, *inter alia*, does not provide a minimum age of marriage, as well as the nationality law which precludes Sri Lankan women from passing nationality to their children on an equal footing with men.

275. The Committee urges the State party to review all existing laws and amend discriminatory provisions so that they are compatible with the Convention and the Constitution. It urges the State party to ensure that constitutional rights are applicable to the activities of non-State actors and the private sector. The Committee further recommends that, in its efforts to eliminate discriminatory legislation, the State party take into account, where appropriate, suggestions and recommendations from bodies such as the Muslim personal law reforms committee set up by the Ministry of Muslim Religious and Cultural Affairs. The Committee also encourages the Government to obtain information on comparative jurisprudence, including that which interprets Islamic law in line with the Convention.

...
284. The Committee expresses its concern about the high incidence of violence against women, including domestic violence. The Committee is concerned that no specific

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legislation has been enacted to combat domestic violence and that there is a lack of systematic data collection on violence against women, in particular domestic violence. The Committee, while appreciating the many amendments to the Penal Code, notes with concern that marital rape is recognized only in the case of judicial separation. The Committee is also concerned that the police fail to respond to complaints of violence against women with gender sensitivity and effectively.

285. The Committee urges the State party to ensure the full implementation of all legal and other measures relating to violence against women, to monitor the impact of those measures, and to provide women victims of violence with accessible and effective means of redress and protection. In the light of its general recommendation 19, the Committee requests the State party to enact legislation on domestic violence as soon as possible. The Committee recommends that the State party devise a structure for systematic data collection on violence against women, including domestic violence, disaggregated by sex and ethnic group. The Committee urges the State party to consider recognizing marital rape in all circumstances as a crime. The Committee recommends that the State party provide comprehensive training to the judiciary, police, medical personnel and other relevant groups on all forms of violence against women.

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

287. The Committee urges the State party to monitor strictly the behaviour of the police and the security forces, to ensure that all perpetrators be brought to justice and to take all necessary measures to prevent acts of violence against all women.

- Portugal, CEDAW, A/57/38 part I (2002) 35 at paras. 333, 334, 343 and 344.

333. The Committee is concerned that incest is not defined explicitly as a crime under the Penal Code but is dealt with indirectly under a number of different penal provisions.

334. The Committee urges the State party to include incest as a crime in the Penal Code so as to make it easier for women and girls who are victims of incest to have access to effective means of redress and protection.

...

343. The Committee is concerned at the apparent lack of legal actions or court decisions where the Convention and/or Constitution have been used to claim the right of

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equality and obtain redress for acts of discrimination.

344. The Committee urges the State party to ensure that adequate mechanisms and access to legal aid are available to enable women to seek redress from the courts on the basis of the Convention and the Constitution.

- Russian Federation, CEDAW, A/57/38 part I (2002) 40 at paras. 369, 373-376, 384, 391, 392, 395 and 396.

369. The Committee welcomes the fact that international treaties, including the Convention, are considered to be a component part of the State's legal system and can be directly invoked in domestic courts.

...

373. The Committee is concerned that the Constitution which recognizes women's right to equality before the law does not contain a definition of discrimination or expressly prohibit discrimination on the ground of sex. The Committee notes that the Constitution has not become an effective instrument to prevent discrimination.

374. The Committee urges the State party to incorporate in the Constitution a specific right of non-discrimination on the ground of sex, and a definition of discrimination, in conformity with article 1 of the Convention. It calls on the State party to introduce effective enforcement procedures and take necessary measures, including public awareness-raising campaigns to ensure effective implementation of women's right to equality.

375. The Committee notes that there is a lack of legislation in critical areas where there is discrimination against women. It is concerned that women are not invoking court procedures to combat sex discrimination because of gaps in the law, evidentiary barriers, a general lack of legal awareness and distrust of the legal system.

376. The Committee recommends that specific legislation and effective enforcement procedures be adopted to combat and eliminate discrimination and respond to violence against women. All such legislation and enforcement procedures be accompanied by access to legal aid and a vigorous awareness-raising campaign to inform women of their rights.

...

384. The Committee urges the enactment of an equal employment opportunity law, prohibiting discrimination in hiring, promotion, employment conditions and dismissal, requiring equal pay for work of equal value and providing for effective enforcement procedures and remedies. It recommends that such legislation include temporary special measures, with time-bound targets, in accordance with article 4, paragraph 1, of the

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Convention, to increase the number of women in higher-level jobs in the public and private sectors.

...

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

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

...

395. The Committee is concerned at the extent of trafficking of Russian women to foreign countries for sexual exploitation. It notes that, in the period from 1994 to 1997, only four court cases were brought and seven persons were convicted for such offences. In addition, the Committee is concerned that the Russian Federation itself has become a country of destination for trafficked women.

396. The Committee recommends the formulation of a comprehensive strategy to combat the trafficking of women, which should include the prosecution and punishment of offenders, increased international regional and bilateral cooperation, in particular with countries of destination and transit, witness protection and the rehabilitation of women and girls who have been victims of trafficking...

- Suriname, CEDAW, A/57/38 part II (2002) 82 at paras. 39, 40, 49, 50, 53 and 54.

39. The Committee is concerned that the Convention has not been incorporated into domestic legislation and that no domestic remedies have been introduced into domestic legislation to enforce the Constitutional provision on discrimination based on sex.

40. The Committee recommends that the State party take steps to incorporate the Convention into domestic law and introduce procedures that will allow women to effectively enforce the prohibition on discrimination based on sex. The Committee also

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recommends that the State party introduce programmes to create awareness about the Convention, the Constitution and such remedies...

...

49. The Committee is concerned about the low penalty for those who exploit prostitutes and that those who exploit prostitutes are not prosecuted. The Committee notes with regret that trafficking in women and girls has not been legally defined and has not been given the attention it deserves. The Committee is particularly concerned that the problem is viewed as a crime against public decency, rather than as a human rights issue, and that it is not being addressed owing to the lack of data. The Committee expresses concern that the maximum penalty of five years' imprisonment for trafficking in human beings may be too lenient given the gravity of the human rights violations involved.

50. The Committee recommends the development of programmes of action for women forced into prostitution by poverty and the introduction of policies to ensure the prosecution of, and stronger penalties for, those who exploit prostitutes and of adults involved in the exploitation of child prostitutes. The Committee also recommends the formulation of a comprehensive strategy to combat the trafficking of women, which should include the prosecution and appropriate punishment of offenders, witness protection and the rehabilitation of women and girls who have been victims of trafficking.

The Committee recommends that the State party consider increasing the penalty for trafficking in women...

...

53. The Committee is concerned that marital rape is not an offence and that there are inadequate data on this form of domestic violence.

54. The Committee urges the State party to criminalize marital rape [and] prosecute offenders...

- Saint Kitts and Nevis, CEDAW, A/57/38 part II (2002) 90 at paras. 93, 94, 105, 106, 109 and 110.

93. The Committee is concerned that the provisions of the Convention cannot be invoked in the courts.

94. The Committee encourages the State party to accord the Convention the legal status it deserves as the most important and binding international legal instrument in the sphere of the advancement of women and the elimination of discrimination against them.

...

105. Although it welcomes the legislation that has been adopted, in particular, the Law Reform Act and the 2000 Domestic Violence Act, and the programmes to prevent violence against women which are being implemented, the Committee expresses concern

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about the persistent high level of violence, particularly domestic violence, in the State party. The Committee is concerned about the high incidence of sexual abuse of girls, particularly by older men. It is also concerned about the unwillingness of women to initiate complaints of domestic violence against husbands and testify against them because of the unwritten code of family loyalty, which regards such violence as a private matter.

106. The Committee urges the State party to enhance its efforts to combat violence against women and girls, in accordance with general recommendation No. 19. It also encourages the State party to come up with creative solutions for shelters for victims of violence, adopt a zero tolerance approach to the sexual abuse of girls, and establish telephone help lines, rehabilitation programmes for offenders, and educational programmes targeted at men and boys on the prevention of violence and the reform of traditional negative attitudes towards women. The Committee also urges the State party to prosecute the perpetrators of abuse against girls. The Committee further urges the State party to pursue prosecution of offenders in cases of domestic violence even in the absence of testimony of the victim in the Court.

...

109. The Committee expresses concern about the lack of legal aid for women and the lengthy process which makes it difficult for women to take men to court in order to obtain child support. The Committee is also concerned that such a lengthy process allows men to serve a prison sentence instead of paying maintenance.

110. The Committee urges the State party to take adequate legislative measures to make it easier for women to obtain child support and access to legal aid.

- Belgium, CEDAW, A/57/38 part II (2002) 95 at paras. 153 and 154.

153. The Committee is concerned that sanctions under the 1995 law on human trafficking may not be adequate to deter trafficking. The Committee is also concerned that deletion of the crime of procuring to avoid sanctions for cohabitation may facilitate exploitation of prostitutes.

154. The Committee recommends the formulation of a comprehensive strategy to combat trafficking in women and girls, including within the territory of the State party, which should include the prosecution and punishment of offenders, and increased international, regional and bilateral cooperation with countries of origin, transit and destination of trafficked women and girls. It encourages the State party to increase its efforts to combat the root causes of trafficking and assist its victims through efforts of counselling and reintegration. It calls on the State party to ensure that trafficked women and girls have the support that they need so that they can provide testimony against their

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traffickers. It also calls on the State party to review the change in the Law on procurement to ensure that the exploitation of prostitutes is not facilitated.

- Tunisia, CEDAW, A/57/38 part II (2002) 102 at paras. 192-195, 200 and 201.

192. The Committee expresses concern that, although the Constitution provides for the equality of all citizens and the 1997 amendment to the Constitution introduced the concept of non-discrimination with regard to political parties, the Constitution does not contain a specific definition prohibiting discrimination against women and there is no definition of such discrimination in accordance with article 1 of the Convention, which prohibits both direct and indirect discrimination. The Committee is concerned at the lack of legal remedies to ensure the Constitutional provision on equality is enforced or court decisions in which women have obtained redress for acts of discrimination.

193. The Committee urges the State party to include the definition of discrimination against women in accordance with article 1 of the Convention in its national law and to ensure access for women to seek and obtain redress from the courts for violation of the rights protected by the Convention and the Constitution, with appropriate remedies...

194. ...The Committee is concerned that no specific legislation has been enacted to combat domestic violence and sexual harassment. The Committee is concerned that article 218 of the Penal Code provides that the withdrawal of a case by a victim terminates any proceeding.

195. ...The Committee calls upon the State party to ensure that all violence against women is prosecuted and punished and that women victims of violence have immediate means of protection and redress. In the light of its general recommendation 19, the Committee requests the State party to enact specific legislation on domestic violence, including marital rape, and sexual harassment. It recommends that the number of shelters for women victims of violence be increased and that full sensitization of public officials, especially law enforcement officials, the judiciary, health-care providers and social workers, to all forms of violence against women is ensured. The Committee calls upon the Government to create public awareness on violence against women as an infringement of human rights that has grave social costs for the whole community.

...

200. The Committee is concerned at the low level of women's labour force participation and at the lack of information regarding its causes. The Committee welcomes Act No. 83-112, which prohibits discrimination on the basis of sex with regard to public entities, but is concerned that such legislation does not extend to the private sector...

201. The Committee urges the State party to adopt appropriate measures to ensure

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women's equal access to paid employment. The Committee also urges the State party to adopt and enforce appropriate legislation to ensure equal opportunities for women and men in the public and private sectors of the labour market, and to prevent direct and indirect discrimination in employment...

- Zambia, CEDAW, A/57/38 part II (2002) 107 at paras. 232, 233, 236-239, 250 and 251.

232. The Committee is concerned that the Convention has not been directly incorporated into domestic law and its provisions cannot be invoked before the Courts.

233. The Committee recommends that the State party incorporate the Convention into domestic law.

...

236. The Committee is concerned that existing constitutional and other legal rights of women to redress for discrimination are not being properly implemented or enforced.

237. The Committee calls upon the State party to strengthen law enforcement and to provide effective remedies through the courts for women who experience discrimination...

238. The Committee expresses concern at the high level of violence against women and girls, including domestic violence and marital rape...

239. The Committee urges the State party to assign the issue of violence against women high priority and to recognize that such violence constitutes a violation of the human rights of women under the Convention. In the light of its general recommendation 19, the Committee requests the State party to enact legislation on domestic violence as soon as possible and to ensure that violence against women and girls constitutes a criminal offence and that female victims of violence have immediate means of redress and protection... It also recommends the establishment of counselling services for the victims and public awareness campaigns in order to adopt and implement a zero tolerance policy with regard to all forms of violence against women and girls...

...

250. The Committee expresses concern that marriage and family relations are governed by dual legal systems of statutory and customary law, and that many of these laws are not in harmony with the Convention. It also notes that customary law is mostly unwritten, often administered by male justices without a legal background, and that discrimination against women is not addressed in their decisions.

251. The Committee recommends that statutory law be reformed and customary law is revised and codified to conform with article 16 of the Convention. It also recommends

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the introduction of programmes on legal education, gender sensitization and human rights for judges.

See also:

- Ukraine, CEDAW, A/57/38 part II (2002) 114 at paras. 292 and 293.
- Uganda, CEDAW, A/57/38 part III (2002) 164 at paras. 135 and 136.

- Ukraine, CEDAW, A/57/38 part II (2002) 114 at paras. 277, 278, 281 and 282.

277. The Committee is concerned that there is still a lack of familiarity with the Convention and the opportunities for its application, including among the judiciary, law enforcement personnel and women themselves.

278. The Committee recommends the introduction of education and training programmes on the Convention, in particular for judges, lawyers and law enforcement personnel. It recommends that awareness-raising campaigns targeted at women be undertaken so that women can avail themselves of legal remedies for violations of the rights under the Convention...

...

281. The Committee expresses concern that, although the Convention is incorporated in domestic law and the Constitution provides for the equality of all citizens, Ukrainian law does not contain a specific definition of discrimination against women and does not provide effective enforcement procedures or remedies...

282. The Committee recommends that the State party include in its legislation a definition of discrimination, enforcement procedures and remedies for violation of women's rights under the Convention. It also recommends the inclusion of a provision allowing the adoption of temporary special measures in accordance with article 4, paragraph 1, of the Convention.

- Denmark, CEDAW, A/57/38 part II (2002) 120 at paras. 316, 319-322, 343 and 344.

316. The Committee welcomes the action plan to stop violence against women, which seeks to give victims the support they need, provide training for professionals and establish multidisciplinary cooperation, break the cycle of violence through corrective treatment of offenders and improve prevention through gathering data on the causes and scope of violence against women.

...

319. The Committee is concerned that the Convention has not been incorporated into domestic legislation. It notes that the Committee on Incorporation of Human Rights

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Conventions into Danish Legislation, appointed by the Minister of Justice in 1999 to examine the advantages and disadvantages of incorporating the general human rights treaties into Danish legislation, on completing its work in October 2001, recommended that the Convention, despite being considered central to the protection of human rights, should not be incorporated into Danish legislation. The Committee also notes that the Constitution does not contain a specific provision on discrimination against women.

320. The Committee recommends that the State party take steps to incorporate the Convention into domestic law, when considering the recommendations of the Committee on incorporation of human rights conventions into Danish legislation...

321. While noting that the State party's gender policy appears to be formulated primarily in the framework of the Beijing Platform for Action and European Union provisions, the Committee is concerned that the Convention has not been given central importance as a binding human rights instrument and basis for elimination of all forms of discrimination against women and the advancement of women.

322. The Committee urges the State party to place emphasis on the Convention as a binding human rights instrument, and to view the Platform for Action as a complementary policy document to the Convention in its efforts to achieve the goals of equality...

...

343. The Committee expresses concern about the situation of migrant, refugee and minority women in Denmark, including discrimination in education and employment and at the gender-based discrimination and violence that they experience.

344. The Committee urges the State party to take effective measures to eliminate discrimination against migrant, refugee and minority women. It encourages the State party to be proactive in its measures to prevent discrimination against migrant, refugee and minority women, both within their communities and in society at large, to combat violence against them, and increase their awareness of the availability of social services and legal remedies.

- Armenia, CEDAW, A/57/38 part III (2002) 150 at paras. 46-49, 56 and 57.

46. The Committee expresses concern at the prevalence of violence against women and that the current legislation on violence does not include any specific provisions on domestic violence. It is concerned that the current penalties for rape are very light and can suggest to the community that this infringement of human rights is not a serious crime.

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47. The Committee urges the State party to recognize that violence against women, including domestic violence, constitutes a violation of the human rights of women under the Convention and requests the State party to place a high priority on the introduction of comprehensive and holistic measures to address violence against women and girls in the family and society. It calls on the State party to ensure that such violence is prosecuted and heavily penalized. Drawing on its general recommendation 19, the Committee requests the State party to enact legislation on domestic violence, and to ensure that victims have immediate means of redress and protection. It recommends that measures be taken to provide shelters for women and girl victims of violence and to ensure that all public officials, in particular law enforcement officials and the judiciary, as well as health providers and social workers, are fully sensitized to all forms of violence against women and girls. The Committee also recommends that the State party undertake awareness-raising measures, including zero-tolerance campaigns through the media and public education programmes, to ensure all forms of violence against women and girls, including domestic violence, are regarded as morally and socially unacceptable.

48. While noting the establishment of the Migrants Service Point as part of an anti-trafficking strategy, the Committee is concerned at the absence of a comprehensive policy, including legislation, to combat trafficking in women and girls. The Committee is also concerned that current legislative provisions to address components of trafficking may exacerbate the situation of victims, rather than discourage perpetrators.

49. The Committee urges the State party to assign the issue of trafficking in women and girls high priority through the formulation of a comprehensive strategy to combat this crime, which should include the prosecution and punishment of offenders and increased international, regional and bilateral cooperation with countries of origin, transit and destination of trafficked women. It recommends the introduction of measures aimed at improving the economic situation of women so as to eliminate their vulnerability to traffickers, education initiatives for vulnerable groups, including teenage girls, as well as social support, rehabilitation and reintegration measures for women and girls who have been victims of trafficking. The Committee calls on the State party to ensure that trafficked women and girls have the support they need so that they can give testimony against perpetrators of trafficking and urges training of border police and law enforcement personnel so that they have the skills necessary to recognize and provide support for victims of trafficking.

...

56. The Committee...is concerned that there is no equal employment opportunities legislation, providing appropriate civil and criminal remedies for discrimination in hiring, promotion, dismissal and sexual harassment in the public and private sectors. The Committee is also concerned that some of the protective provisions for women in employment are formulated in a way that perpetuates disadvantageous stereotypes.

57. The Committee recommends that the State party adopt equal employment

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opportunities legislation...In addition, the Committee recommends that the State party review its protective legislation in order to address any negative impact it may have on women's employment.

See also:

- Czech Republic, CEDAW, A/57/38 part III (2002) 157 at paras. 93, 94, 97 and 98.
- Greece, CEDAW, A/57/38 part III (2002) 184 at paras. 275 and 276.

- Czech Republic, CEDAW, A/57/38 part III (2002) 157 at paras. 87, 88, 95 and 96.

87. The Committee is concerned that women have seldom used laws to challenge acts of discrimination and that there is a lack of court decisions in which women have obtained redress for such acts. The Committee is also concerned that there is still a lack of familiarity with both the Convention itself and the opportunities for its application and enforcement, as well as with legislative reforms aimed at eliminating discrimination against women, including among the judiciary, law enforcement personnel and women themselves.

88. The Committee urges the State party to ensure that Czech law provides adequate and accessible enforcement procedures and legal remedies for violations of women's rights. The Committee recommends the strengthening of education and training programmes in particular for judges, lawyers and law enforcement personnel on the Convention and on the legislative reforms aimed at eliminating discrimination against women. It urges the State party to ensure that Czech law provides adequate enforcement procedures and legal remedies for violation of women's rights. It recommends that awareness-raising campaigns targeted at women be undertaken so that women can avail themselves of procedures and remedies for violations of the rights under the Convention... It encourages the State party to further reflect, within the framework of the intended legislation on discrimination, on the establishment of quasi-judicial mechanisms.

...

95. The Committee is concerned that the current attitudes towards incest, as expressed, *inter alia*, in the light penalties for this crime, as well as the penalties for rape, give an impression to the community that these infringements of human rights are not serious crimes. The Committee is concerned that the definition of the crime of rape is based on the use of force, rather than lack of consent and that rape within marriage is not currently considered a specific crime.

96. The Committee urges the State party to review and strengthen the penalties for the crimes of incest and rape in order to emphasize that these crimes are serious violations of women's human rights. The Committee urges the State party to define the crime of rape as sexual intercourse without consent and to explicitly address the crime of rape within

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marriage.

- Uganda, CEDAW, A/57/38 part III (2002) 164 at paras. 129-132 and 153-156.

129. The Committee is concerned that, despite the adoption of its gender-sensitive Constitution in 1995, legislative provisions that discriminate against women continue to exist. It is also concerned that, although progress has been made towards the preparation of legislation to eliminate discrimination, much of this has not been enacted. It is particularly concerned at the slow progress in removing *de jure* discrimination and preventing and eliminating *de facto* discrimination against women.

130. The Committee recommends that the State party accelerate its law reform process to harmonize its domestic legislation with its constitutional principles relating to non-discrimination and equality between women and men. It recommends the speedy enactment of the draft Land Act, the Domestic Relations Bill and the Sexual Offences Bill. The Committee further recommends that the State party introduce public education and legal literacy campaigns relating to the Convention and the Constitution to raise awareness of the State party's international and national commitments on the elimination of discrimination against women.

131. The Committee is concerned that, although laws and customs which contravene the constitutional guarantees on equality are considered to be void, mechanisms to enforce the constitutional provisions on non-discrimination are not widely known and are inaccessible to women.

132. The Committee recommends the adoption of an accessible complaints procedure to enforce constitutional guarantees. It also calls for the introduction of legal literacy campaigns to make women aware of their rights under the Constitution and the means to enforce them. The Committee recommends the development, in cooperation with women's groups, of legal aid programmes to enable women to demand enforcement of their rights.

...

153. While noting that Article 33 (6) of the Constitution "prohibits laws, customs or traditions which are against the dignity, welfare or interest of women", the Committee notes with concern the continued existence of legislation, customary laws and practices on inheritance, land ownership, widow inheritance, polygamy, forced marriage, bride price, guardianship of children and the definition of adultery that discriminate against women and conflict with the Constitution and the Convention.

154. The Committee urges the State party, in line with Article 33 (6) of the 1995 Constitution, to amend these laws and prohibit such practices. The Committee requests

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the State party to work with the relevant ministries and non-governmental organizations, including lawyers' associations and women's groups, to create an enabling environment for legal reform and effective law enforcement and legal literacy.

155. While noting the positive involvement of women in peace-building initiatives, the Committee notes with concern that some areas of northern and western Uganda continue to experience insecurity as a result of civil strife. The Committee is particularly concerned that many women and girls in the conflict areas have been victims of violence, including abduction and sexual slavery.

156. The Committee urges the State party to include women in national reconciliation and peace-building initiatives. The Committee recommends that the State party include women from all ethnic groups affected by armed conflict in peace negotiations. It also recommends that the State party include in peace negotiations measures of accountability, redress and rehabilitation for women and girls who have been victims of violence, including enslavement, in those conflicts.

- Guatemala, CEDAW, A/57/38 part III (2002) 171 at paras. 186 and 187.

186. The Committee expresses concern that, while the human rights of women are explicitly recognized in a number of laws, there does not appear to be wide awareness among women of their rights under these laws or the means by which those laws can be enforced. The Committee notes that, despite the introduction of protections and social security rights in the area of labour, including domestic workers and those working in the *maquila* industries, this legislation is not complied with or enforced and that some employers in this industry require women seeking employment to undergo pregnancy tests. The Committee notes that non-enforcement of such labour legislation constitutes "discrimination of effect" as defined in article 1 of the Convention.

187. The Committee calls upon the State party to ensure that State authorities implement all current legislation concerning women's human rights, in particular labour legislation through proactive investigations of alleged violations of female workers' rights and take measures to strengthen the enforcement powers of labour inspection authorities. The Committee further urges the State party to take appropriate measures, including the promotion of stronger private sector codes of conduct, to ensure compliance with existing legislation, in particular with regard to the rights of women enshrined in the Convention, which forms part of Guatemalan law. The Committee also calls upon the State party to take steps to raise awareness among women of their legal rights and the means by which those rights can be enforced.

- Barbados, CEDAW, A/57/38 part III (2002) 177 at paras. 225-228, 235, 236, 239 and

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240.

225. The Committee is concerned that the Constitution, which recognizes women's right to equality before the law and guarantees the fundamental rights and freedoms of all individuals, does not prohibit discrimination on the grounds of sex, and that there is no legislative definition of "discrimination against women" reflecting article 1 of the Convention, which prohibits both direct and indirect discrimination. It is further concerned about the lack of information provided about procedures available to women to enforce their rights under the Convention, challenge discrimination and obtain redress.

226. The Committee recommends that the State party take steps to include in the Constitution and/or legislation a specific right of non-discrimination on the grounds of sex, defined in accordance with article 1 of the Convention. It calls on the State party to introduce procedures that will allow the enforcement of the prohibition on discrimination based on sex and to introduce effective measures, including public awareness-raising campaigns about the Convention, the Constitution and remedies to implement women's right to equality...

227. The Committee notes the lack of information on whether the Office of the Ombudsman established to address public grievances has received and considered complaints of violations of women's rights.

228. The Committee...recommends that the State party take measures to ensure that the Office of the Ombudsman incorporates a gender perspective in its work.

...

235. The Committee is concerned at the limited information provided on trafficking in women and girls and their exploitation in prostitution in the State party's report...

236. The Committee recommends the introduction of policies to ensure the prosecution of, and strong penalties for, those who exploit prostitutes...

...

239. While welcoming the recognition of marital rape as a sexual offence, the Committee notes with concern that, under the Sexual Offences Act, marital rape is recognized as a crime only after the issuance of a decree of divorce, a separation order or a separation agreement, or where the husband is subject to a non-molestation order.

240. The Committee urges the State party to consider defining marital rape to include circumstances of *de facto* separation, and to create awareness of the legal remedies so that offenders can be prosecuted and punished...

See also:

- Hungary, CEDAW, A/57/38 part III (2002) 189 at paras. 313 and 314.

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- Greece, CEDAW, A/57/38 part III (2002) 184 at paras. 277, 278, 295 and 296.

277. The Committee is concerned about the absence of specific legal provisions and measures to address sexual harassment, especially in the workplace.

278. The Committee urges the State party to take all necessary measures, including introducing specific legislation, in order to empower women to take action with regard to sexual harassment.

...

295. The Committee is concerned about the marginalization of Muslim women with regard to education, employment, and by the non-application of the general law of Greece to the Muslim minority on matters of marriage and inheritance, resulting particularly in the practice of polygamy and repudiation. The Committee is concerned that this situation leads to discrimination against Muslim women and negatively impacts on the realization of their human rights as protected under the Greek Constitution and the Convention.

296. The Committee urges the State party to accelerate its efforts aimed at improving Muslim women's education and employment opportunities. The Committee also urges the State party to increase the awareness of Muslim women of their rights and remedies and to ensure that they benefit from the provisions of Greek law.

- Hungary, CEDAW, A/57/38 part III (2002) 189 at paras. 317, 318, 321 and 322.

317. While welcoming the fact that the Parliamentary Commissioner for Civil Rights (Ombudsman) may investigate cases of violations of women's rights and may recommend remedies in this context, the Committee notes that the Commissioner has only considered one case of discrimination against women. The Committee is concerned that the Parliamentary Commissioner for Civil Rights has not made efforts to initiate legislation or regulations concerning gender issues.

318. The Committee recommends that the State party take measures to ensure that the institution of the Parliamentary Commissioner for Civil Rights actively and fully incorporates a gender perspective in its work.

...

321. The Committee is concerned about the prevalence of violence against women and girls, including domestic violence. It is particularly concerned that no specific legislation has been enacted to combat domestic violence and sexual harassment and that no protection or exclusion orders or shelters exist for the immediate protection of women

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victims of domestic violence.

322. The Committee urges the State party to place high priority on comprehensive 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 its general recommendation 19 on violence against women, the Committee calls upon the State party 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, including access to shelters that provide them with effective and confidential protection from their abusers. It recommends that training measures be taken to ensure that public officials, especially law enforcement officials, the judiciary, the medical profession and social workers, are fully sensitized to all forms of violence against women. The Committee invites the State party to undertake awareness-raising measures in cooperation with women's human rights NGOs, including a campaign of zero tolerance, to make such violence socially and morally unacceptable. It recommends the introduction of a specific law prohibiting domestic violence against women, which would provide for protection and exclusion orders and access to legal aid as well as specific legislation prohibiting sexual harassment.

- Yemen, CEDAW, A/57/38 part III (2002) 200 at paras. 390, 391, 398 and 399.

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

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

...

398. The Committee is concerned about all forms of violence against women, including domestic violence, sexual violence and female genital mutilation, and notes with concern the lack of information and systematic data on these matters.

399. ...With regard to the practice of female genital mutilation, the Committee calls on the State party to enhance its activities to eradicate this harmful, traditional practice, especially through awareness-raising campaigns. In the light of its general recommendation 19, the Committee calls upon the State party to ensure that all forms of

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violence against women are prosecuted and punished adequately and that victims have immediate access to redress and protection. The Committee requests the State party to ensure the full sensitization of law enforcement officials, the judiciary and the public on all forms of violence against women and girls.

- Mexico, CEDAW, A/57/38 part III (2002) 205 at paras. 429-432, 439 and 440.

429. The Committee expresses its concern at the fact that no instances are mentioned in which the Convention has been invoked before the courts and the lack of a compilation of judicial decisions in this regard.

430. The Committee calls on the State party to undertake dissemination, education and awareness-raising campaigns on the provisions of the Convention aimed at society as a whole, particularly officials responsible for the administration and protection of justice and especially Mexican women, in order to make them aware of their rights in the judicial arena at the national and state levels.

431. While noting that the problem of violence is regarded as one of the priority areas of PROEQUIDAD and that major reforms have been enacted to the Penal Code, the Committee expresses great concern at violence against women in Mexico, including domestic violence, which continues to go unpunished in several states.

432. The Committee requests the State party to take into account its Recommendation No. 19 on violence against women and take the steps required to ensure that the law provides appropriate penalties for all forms of violence against women and that appropriate procedures exist for investigating and prosecuting such offences. It recommends that the State party promote the enactment of federal and state laws, as appropriate, to criminalize and punish domestic violence and the perpetrators thereof, and take steps to ensure that women victims of such violence can obtain reparation and immediate protection, particularly by establishing 24-hour telephone hotlines, increasing the number of shelters and conducting zero-tolerance campaigns on violence against women, in order that it may be recognized as an unacceptable social and moral problem. The Committee also considers it especially important that steps be taken to train health-care workers, police officers and staff of special prosecutors' offices in human rights and dealing with violence against women.

...

439. The Committee expresses great concern at the incidents in Ciudad Juárez and at the continuing murders and disappearances of women. It is especially concerned at the apparent lack of results of the investigations into the causes of the numerous murders of women and the failure to identify and bring to justice the perpetrators of such crimes with a view to protecting women against this type of violence.

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440. The Committee calls on the State party to promote and accelerate compliance with Recommendation No. 44/98 of the Mexican National Human Rights Commission in relation to the investigation and punishment of the Ciudad Juárez murders. The Committee also calls on the State party to protect women from such violations of their human right to personal safety.

- Peru, CEDAW, A/57/38 part III (2002) 212 at paras. 476-479, 484 and 485.

476. The Committee is concerned that, although there is an Act for prevention, protection and attention to violence in the family and another Act requiring public criminal proceedings in cases of crimes against sexual freedom, as well as a National Programme against Family Violence and Sexual Abuse, the figures for violence towards women are still very high. The Committee is concerned that there is no centralized register for sex crimes, that proper attention has not been given to sexual abuse and that incest has not been characterized as a specific offence. Moreover, the Committee is concerned about the lack of specific legislation to combat sexual harassment.

477. The Committee requests the State party to take into account General Recommendation No. 19 on violence towards women, and to guarantee systematic implementation of the National Programme of Action and of all the laws and measures relating to violence towards women and to monitor their impact. The Committee also urges the State party to guarantee that such violence will be prosecuted and punished with due speed and severity and to ensure that women subjected to such violence receive compensation and immediate protection and that the conciliation procedure envisaged in the law on family violence is not used to exonerate the perpetrators. The Committee recommends that the State party should conduct campaigns to increase awareness, including zero-tolerance campaigns, with the aim of making violence towards women socially and morally unacceptable. The Committee recommends that the State party should reinforce measures to guarantee that public officials - in particular the judiciary, health sector workers, police and social workers - are alert to all types of violence towards women... The Committee requests the State party to categorize incest as a specific crime under the Penal Code and to promulgate specific legislation to combat sexual harassment.

478. The Committee notes with concern that gender-based discrimination persists in the labour market, including limited and low-level job access for women and their reduced access to resources and new technologies. The Committee is also concerned about wage discrimination and vertical and horizontal segregation. The Committee is concerned at the precarious conditions of women working in the informal sector and at part-time work, who have no labour protection, no access to social security and no due respect for their

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labour rights. It is also of concern to the Committee that legislation preventing discrimination in employment appears to be based on criminal penalties only and that appropriate civil remedies do not exist.

479. The Committee recommends that the necessary measures should be taken to guarantee implementation of the provisions of article 11 of the Convention and application of the International Labour Organization Conventions, in particular those on non-discrimination in employment and equal remuneration for women and men. The Committee recommends that measures should be taken to eliminate occupational segregation, in particular through education and training.

...

484. The Committee notes with concern that, in the period covered by the report, mention is made of numerous cases of sterilization of women without prior informed consent, using psychological violence or the promise of financial incentives, thus affecting women's right to decide the number and spacing of their children. The Committee is also concerned that, although the Deputy Defender for Women's Rights and other organs have condemned these practices, those responsible have not been punished.

485. The Committee recommends that all necessary measures should be taken to continue to provide the service of surgical sterilization so as to give women the right of free choice as regards their reproductive health, after they have been duly informed of the medical details and consequences of the operation and have given their consent. The Committee also recommends that a recurrence of these incidents should be avoided in the future. It further recommends that efforts should be continued to bring before the courts the persons responsible for this violation of the right to health.

- Albania, CEDAW, A/58/38 part I (2003) 13 at paras. 56, 58, 59, 62-65 and 71.

56. The Committee welcomes the early establishment of a national machinery for the advancement of women and gender equality and the establishment of the Office of the People's Advocate (Ombudsman), which may investigate claims of violations of human rights, including women's rights, and make recommendations to redress the violations.

...

58. While noting with satisfaction that, in principle, the Convention is incorporated into Albanian law and thus has precedence over conflicting national laws in those provisions of the Convention which are deemed to be directly applicable, the Committee is nevertheless concerned about the lack of clarity regarding the direct applicability of the Convention in Albania.

59. The Committee urges the State party to clarify the issue of the direct applicability of the Convention within the national legal order of Albania.

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...

62. The Committee is concerned that women have seldom used existing laws to challenge acts of discrimination and that there is no record of court decisions in which women have obtained redress for such acts.

63. The Committee urges the State party to ensure that Albanian law provides adequate, accessible and affordable enforcement procedures and legal remedies for violation of women's human rights...

64. The Committee is concerned that there is a lack of familiarity with the Convention and the opportunities for its application and enforcement, including among the judiciary, law enforcement personnel, non-governmental human rights and women's organizations and women themselves.

65. The Committee recommends the introduction of education and training programmes on the Convention, in particular for parliamentarians, the judiciary and law enforcement personnel. It recommends that awareness-raising campaigns targeted at women be undertaken so that women can avail themselves of procedures and remedies for violations of their rights under the Convention.

...

71. The Committee recommends the formulation of a comprehensive strategy to combat trafficking in women and girls, which should include the prosecution and punishment of offenders. The Committee also encourages the State party to pursue increased international, regional and bilateral cooperation with other countries of origin, transit and destination for trafficked women and girls. It recommends the introduction of measures aimed at improving the economic situation of women so as to eliminate their vulnerability to traffickers, education initiatives for vulnerable groups, including teenage girls, and social support, rehabilitation and reintegration measures for women and girls who have been victims of trafficking. It calls on the State party to ensure that trafficked women and girls have the protection and support they need to enable them to provide testimony against their traffickers. It urges that training of border police and law enforcement officials provide them with the requisite skills to recognize and provide support for victims of trafficking. It recommends that the State party review existing legislation and take steps to ensure that victims of trafficking are not penalized and that all those who exploit prostitutes are punished and prosecuted. The Committee further urges the State party to make the issue of trafficking in women and girls a high priority...

- Switzerland, CEDAW, A/58/38 part I (2003) 20 at paras. 101, 106, 107, 110, 111, 116, 117, 134 and 135.

101. The Committee commends the State party for including the principle of gender

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equality in its Federal Constitution, which explicitly mandates legislators to ensure women's *de jure* and *de facto* equality, particularly in the areas of family, education and work, and authorizes legislators to take steps to ensure equality in line with article 4, paragraph 1, of the Convention. The Committee notes with appreciation that the Swiss legal order ensures the primacy of international treaties, including the Convention, in domestic law.

...

106. The Committee notes with concern that, although the doctrine of monism is applied in the State party, the Federal Council has expressed the view that the Convention is largely programmatic and that its provisions are not, in principle, directly applicable. The Committee is therefore concerned that Swiss law may not provide women with the necessary means to enforce all their rights under the Convention.

107. The Committee recommends that the State party ensure effective enforcement of the rights enshrined in the Convention and provide women with appropriate remedies in the courts for violations of the rights protected by the Convention. It also recommends awareness-raising campaigns about the Convention aimed at parliamentarians, the judiciary and legal professionals...

...

110. The Committee is concerned that the different levels of authority and competencies in the State party create difficulties in respect of the implementation of the Convention throughout the Confederation and with regard to coordination and accountability. The Committee is also concerned that the federal structure and the form of grass-roots democracy practised in the State party have slowed progress in eliminating discrimination against women and achieving gender equality.

111. The Committee recommends to the State party that it ensure uniformity of results in the implementation of the Convention within the Confederation, through effective coordination and the establishment of a mechanism to monitor compliance with the provisions of the Convention at all levels and in all areas.

...

116. While recognizing current legal and other efforts by the State party to address violence against women, including the creation of a gender health service and a centre to fight violence against women and the training of staff called upon to deal with cases of violence, the Committee is concerned about the prevalence of violence against women and girls, including domestic violence.

117. The Committee calls upon the State party to intensify its efforts to address the issue of violence against women, including domestic violence, as an infringement of their human rights. In particular, the Committee urges the State party to adopt laws and implement policies in accordance with the Committee's general recommendation 19, in order to prevent violence, provide protection, support and services to the victims and

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punish and rehabilitate offenders.

...

134. The Committee is deeply concerned that, in spite of the high level of development of the State party, there are groups of women, mainly those who are single heads of household and elderly women, who have been particularly affected by poverty.

135. The Committee recommends that the State party closely monitor the poverty situation of women in the most vulnerable groups and implement effective measures and training programmes that will allow them to fully enjoy the benefits of the State party's development.

- Kenya, CEDAW, A/58/38 part I (2003) 35 at paras. 205-208.

205. Although the draft constitution, once enacted, should provide for the applicability of international conventions ratified by the State party in domestic courts of law, the Committee is concerned that the Convention on the Elimination of All Forms of Discrimination against Women has not yet been incorporated into domestic law and its provisions have not been invoked before the courts.

206. The Committee recommends that the State party incorporate the provisions of the Convention on the Elimination of All Forms of Discrimination against Women into domestic law without delay and requests the State party to ensure that the provisions of the Convention are fully reflected in the constitution and in all legislation.

207. The Committee is concerned that legislative provisions as well as customary laws and practices that discriminate against women in areas such as marriage, divorce, burial and devolution of property on death continue to exist. The Committee is further concerned at the continued existence of multiple laws governing marriage and divorce.

208. The Committee recommends that the State party take appropriate action to eliminate all discriminatory laws, practices and traditions and to ensure women's equality with men particularly in marriage and divorce, burial and devolution of property upon death in accordance with the provisions of the Convention. In this regard, the Committee recommends speedy enactment of the relevant bills, including the Domestic violence (family protection) bill of 2002; the Equality bill of 2001; the National Commission on Gender and Development bill of 2002; the Criminal law amendment bill of 2002; the HIV/AIDS Prevention and Control bill of 2002; and the Public Offices Code of Ethics bill of 2002. The Committee also recommends that the State party's relevant ministries continue working with civil society, including non-governmental organizations, in order to create an enabling environment for legal reform, effective law enforcement and legal literacy.

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- El Salvador, CEDAW, A/58/38 part I (2003) 41 at paras. 249 and 250.

249. The Committee is concerned that, although legislative reforms have been introduced in many spheres, such laws and policies have yet to be effectively implemented. The Committee is also concerned that the Constitution of El Salvador does not include a specific prohibition against sex-based discrimination or the definition of discrimination contained in the Convention and that El Salvador's legislation provides for equality in the exercise of civil and political rights but makes no mention of economic, social and cultural rights. The Committee is likewise concerned that only "serious" discrimination is punished by the Penal Code and that the Agrarian Code still contains discriminatory concepts.

250. The Committee encourages the State party to incorporate fully into its legislation the principle of non-discrimination set forth in the Convention, in order to progress towards *de jure* equality as an essential prerequisite for achieving *de facto* equality of women. The Committee also recommends that concepts that are not in keeping with the provisions of the Convention be amended or abolished, with a view to protecting and guaranteeing women's human rights.

- Luxembourg, CEDAW, A/58/38 part I (2003) 47 at paras. 300-305.

300. While welcoming the positive developments with regard to the ongoing process of amending the Constitution in order to integrate the principle of equality between women and men and to allow for the withdrawal of the reservation to the Convention with regard to article 7 as well as the draft law related to the withdrawal of the reservation to article 16 of the Convention, the Committee remains concerned that these processes have not yet been concluded.

301. The Committee calls upon the State party to accelerate the process of revising the Constitution to integrate the principle of equality between women and men and to withdraw the reservation to article 7 of the Convention, and to adopt the draft law which will allow for the withdrawal of the reservation to article 16 of the Convention.

302. The Committee expresses concern that there is no definition of discrimination on the basis of sex as stipulated in article 1 of the Convention within the legal framework of the State party despite the State party's commitment to promote equality between women and men.

303. The Committee calls upon the State party to make the necessary legislative changes to integrate the concept of discrimination on the basis of sex within its legal

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framework with a view to eliminating such discrimination.

304. While noting that the State party's gender policy appears to be formulated primarily in the framework of the Beijing Platform for Action and the European Union provisions, the Committee is concerned that the Convention has not been given central importance as a legally binding human rights instrument and basis for the elimination of all forms of discrimination against women and the advancement of women.

305. The Committee urges the State party to place emphasis on the Convention as a legally binding human rights instrument and to view the Platform for Action as a programmatic policy framework in its efforts to achieve the goals of equality. It also urges the State party to take proactive measures to raise awareness about the Convention, in particular among parliamentarians, the judiciary and the legal profession.

- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 341, 355, 356 and 359-362.

341. The Committee commends the State party for ongoing efforts towards improving the legal and *de facto* situation of women in Canada; in particular, it notes that the Canadian Human Rights Act as well as provincial and territorial human rights legislation have been amended or reinterpreted through court rulings and that additional laws have been formulated, all of which are directed towards the prohibition of all kinds of discrimination, including, *inter alia*, the practice of female genital mutilation.

...

355. While appreciating the fact that funds are available under the Court Challenges Programme for test cases under the equality guarantee in the Canadian Charter of Rights and Freedoms, the Committee is concerned that the Programme applies only to federal laws and programmes. The Committee is also concerned that federal legal aid funds in civil and family law and for legal matters related to poverty issues, in contrast to legal aid for criminal cases, are channelled to the provinces and territories at their discretion. That, in practice, turns out to have a disproportionately restrictive impact on women seeking legal redress as compared with men.

356. The Committee urges the State party to find ways for making funds available for equality test cases under all jurisdictions and for ensuring that sufficient legal aid is available to women under all jurisdictions when seeking redress in issues of civil and family law and in those relating to poverty issues.

...

359. The Committee is concerned about a number of recent changes in British Columbia which have a disproportionately negative impact on women, in particular aboriginal women. Among these changes are: a cut in funds for legal aid and welfare assistance, including changes in eligibility rules; a cut in welfare assistance; the

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incorporation of the Ministry of Women's Equality under the Ministry of Community, Aboriginal and Women's Services; the abolition of the independent Human Rights Commission; the closing of a number of courthouses; and the proposed changes regarding the prosecution of domestic violence as well as a cut in support programmes for victims of domestic violence.

360. The Committee, through the State party, urges the government of British Columbia to analyse its recent legal and other measures as to their negative impact on women and to amend the measures, where necessary.

361. While appreciating the federal Government's efforts to combat discrimination against aboriginal women, including the pending amendment to the Canadian Human Rights Act, and to achieve substantive equality for them, the Committee is seriously concerned about the persistent systematic discrimination faced by aboriginal women in all aspects of their lives. The Committee is concerned that aboriginal women, among other highly vulnerable groups of women in Canada, are over-concentrated in lower-skill and lower-paying occupations, they constitute a high percentage of those women who have not completed secondary education, they constitute a high percentage of women serving prison sentences and they suffer high rates of domestic violence. The Committee is further concerned that the First Nations Governance Act currently under discussion does not address remaining discriminatory legal provisions under other Acts, including matrimonial property rights, status and band membership questions which are incompatible with the Convention.

362. The Committee urges the State party to accelerate its efforts to eliminate *de jure* and *de facto* discrimination against aboriginal women both in society at large and in their communities, particularly with respect to the remaining discriminatory legal provisions and the equal enjoyment of their human rights to education, employment and physical and psychological well-being. It urges the State party to take effective and proactive measures, including awareness-raising programmes, to sensitize aboriginal communities about women's human rights and to combat patriarchal attitudes, practices and stereotyping of roles. It also recommends to the State party to ensure that aboriginal women receive sufficient funding in order to be able to participate in the necessary governance and legislative processes that address issues which impede their legal and substantive equality

- Norway, CEDAW, A/58/38 part I (2003) 61 paras. 410, 414, 417-420, 427 and 428.

410. The Committee recommends that the State party amend section 2 of the Human Rights Act (1999) to include the Convention and its Optional Protocol, which will ensure that the provisions of the Convention prevail over any conflicting statutes and that its

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provisions can be invoked in domestic courts. It also recommends campaigns to raise awareness of the Convention, aimed, *inter alia*, at parliamentarians, the judiciary and the legal profession...

...

414. The Committee urges the State party to take effective measures to eliminate discrimination against migrant, refugee and minority women and to further strengthen its efforts to combat xenophobia and racism. It also urges the State party to be proactive in its measures to prevent discrimination against these women, both within their communities and in society at large, and to increase their awareness of the availability of social services and legal remedies. The Committee recommends that the State party ensure that a gender dimension is included in legislation against ethnic discrimination.

...

417. The Committee expresses concern that the policy of decentralization has reduced the number of institutions responsible for gender equality issues at the municipal level, which may have a negative impact on the advancement of women and gender equality.

418. The Committee recommends that the State party undertake a gender-impact analysis of its decentralization policy and guarantee, if necessary through legislation, that there are institutions responsible for gender equality issues in all communities in Norway.

419. The Committee is concerned about the persistence of violence, including domestic violence, against women and children in Norway. It is further concerned that this violence, the extent of which is unknown, is regarded as falling into the private sphere. The Committee is furthermore concerned that a predominant and growing number of women who seek refuge in shelters for battered women are migrants. It is also concerned that an extremely low percentage of reported rapes results in convictions and that the police and public prosecutors dismiss an increasing number of such cases.

420. The Committee urges the State party to intensify its efforts to address the issue of violence against women, including domestic violence, as an infringement of women's human rights. In particular, the Committee urges the State party to undertake appropriate measures and introduce laws in conformity with general recommendation 19 to prevent violence, prosecute and rehabilitate offenders, and provide support services and protection for victims. The Committee also urges the State party to initiate research and analysis of the causes of the very low percentage of trials and convictions in reported rape cases.

...

427. The Committee is concerned about the noticeable decline in recent years in women's representation in Parliament and notes that the increase in women's participation in municipal and county councils is slow. The Committee is also concerned about the low level of representation of women in the higher levels of the diplomatic service, in particular as ambassadors or as consuls general.

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428. The Committee recommends that the State party introduce measures to increase the representation of women in Parliament, in municipal and county councils and at higher levels in the Foreign Service, particularly as ambassadors and consuls general.

- Costa Rica, CEDAW, A/58/38 part II (2003) 86 at paras. 49, 50, 52 and 53.

49. The Committee noted with satisfaction that the State party had given the Convention the rank of a constitutional law, as a legally binding treaty taking precedence over national legislation. The Committee also commended the State party for the adoption of the National Policy on Gender Equality and Equity 2002-2006, for the purpose of incorporating the gender approach in the Government's national programme.

50. The Committee noted with satisfaction that the Constitution proclaimed the equality of all persons before the law and prohibited discrimination, and that the Act Promoting the Social Equality of Women explicitly proclaimed the equality of women and men...

...

52. Although the Constitution proclaims the equality of all persons before the law and prohibits discrimination, the Committee notes with concern that the Convention is not directly invoked in legal proceedings and that social resistance and sociocultural patterns still exist that impede the practical implementation of these legal norms.

53. The Committee recommends that the State party launch at the national level a broad programme of dissemination of the Convention and its implications for protection of the rights of women, and that it conduct legal education and training activities for women, lawyers, officials in charge of law enforcement and judges and magistrates, with a view to ensuring that the provisions of the Convention are known and are made use of in judicial processes.

- Brazil, CEDAW, A/58/38 part II (2003) 93 at paras. 92, 100, 101, 104, 105 and 110-115.

92. The Committee commends the State party on its Federal Constitution of 1988 that enshrines the principle that men and women have equal rights and duties; prohibits discrimination in the labour market by reason of sex, age, colour or marital status; protects motherhood as a social right by ensuring maternity leave without the loss of job and salary; and establishes the duty of the State to suppress violence within the family.

...

100. The Committee notes with concern that, while international treaties to which Brazil is a party have become part of domestic law, there is disagreement in the judiciary as to the legal doctrine regarding the status of such international treaties and their direct

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applicability.

101. The Committee recommends that awareness-raising and sensitization of the judiciary and other law enforcement authorities be undertaken to alter the predominant view of the status of international treaties in the hierarchy of Brazilian law.

...

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

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

...

110. The Committee is concerned about the impact of poverty on Brazilian women of African descent, indigenous women, female heads of household and other socially excluded or marginalized groups of women and about their disadvantaged position with respect to access to education, health, basic sanitation, employment, information and justice.

111. The Committee urges the State party to ensure that its poverty eradication measures give priority attention to Brazilian women of African descent, indigenous women, female heads of household and other socially excluded or marginalized groups of women through adequately funded programmes and policies addressing their specific needs.

112. While acknowledging the efforts made to address violence against women, including the early establishment of specialized police stations (DEAMS) and shelters, the Committee is concerned about the persistence of violence against women and girls, including domestic violence and sexual violence, the existing lenient punishments for offenders and the absence of a specific law on domestic violence. The Committee is further concerned that violence against women, including domestic violence and sexual violence, is not being sufficiently addressed owing to the lack of information and data.

113. The Committee urges the State party to take all necessary measures to combat violence against women in conformity with the Committee’s general recommendation 19 to prevent violence, punish offenders and provide services for victims. It recommends

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that the State party adopt without delay legislation on domestic violence and undertake practical measures to follow up and monitor the application of such a law and evaluate its effectiveness...

114. The Committee is concerned about reports that indigenous women are being sexually abused by military units and prospectors (gold miners) on indigenous lands. The Committee notes that the Government is considering developing a code of conduct to regulate the presence of the armed forces on indigenous lands.

115. The Committee calls upon the State party to take necessary measures to raise awareness of the situation of indigenous women and girls and ensure that sexual violence against them is prosecuted and punished as a grave crime. It also urges the State party to adopt preventive measures, including swift disciplinary inquiries and human rights education programmes for the armed forces and law enforcement personnel.

- Morocco, CEDAW, A/58/38 part II (2003) 101 at paras. 168 and 169.

168. The Committee is concerned that there is a lack of specific legislation to eliminate violence against women and girls, including domestic violence, and violence against domestic workers.

169. The Committee recommends that the State party expedite the adoption and implementation of a national strategy to combat violence against women. This would include the collection of sex-disaggregated data on all forms of violence, research into the extent of violence against women and girls including domestic violence and the adoption of specific legislation on domestic violence. In the light of its general recommendation 19, the Committee calls upon the State party to ensure that all forms of violence against women are prosecuted and punished adequately and that victims have immediate means of redress and protection. The Committee requests the State party to ensure the full sensitization and training of law enforcement officials, the judiciary and the public on all forms of violence against women and girls. The Committee also urges the State party to take steps towards the protection of domestic workers and to ensure that restrictions on child labour are enforced.

- France, CEDAW, A/58/38 part II (2003) 116 at paras. 255 and 256.

255. The Committee is concerned that, although according to article 55 of the Constitution the Convention has precedence over domestic law, there are no Court decisions that refer to the Convention.

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256. The Committee recommends that the State party implement measures to create awareness of the Convention and the Optional Protocol to the Convention among the judiciary, prosecutors and lawyers.

- Ecuador, CEDAW, A/58/38 part II (2003) 122 at paras. 313 and 314.

313. The Committee is concerned at the Government's lack of attention to the problem of prostitution and at the fact that current legislation fails to penalize pimps for managing premises for this type of exploitation. This is the case under the rules established by the administrative authorities, and those rules are incompatible with article 6 of the Convention.

314. The Committee recommends that appropriate attention should be given to the problem of prostitution and that the law should penalize those who engage in the exploitation of prostitution.

- Japan, CEDAW, A/58/38 part II (2003) 130 at paras. 361, 362 and 373-375.

361. While acknowledging legal and other measures by the State party to address violence against women, the Committee is concerned about the prevalence of violence against women and girls and about women's apparent reluctance to seek assistance from existing public institutions. It is concerned that the Law for the Prevention of Spousal Violence and the Protection of Victims currently does not cover forms of violence other than physical violence. It is also concerned that the penalty for rape is relatively lenient and that incest is not defined explicitly as a crime under the Penal Code but is dealt with indirectly under a number of different penal provisions. The Committee is further concerned about the particular situation of foreign women who experience domestic violence and whose immigration status might depend on their living together with their spouse. The Committee is concerned that fear of repatriation might be a deterrent for those women to seek assistance or take steps to seek separation or divorce. While appreciative of the comprehensive information provided by the State party with respect to the measures it has taken before and after the Committee's consideration of the second and third periodic reports of the State party with respect to the issue of "wartime comfort women", the Committee notes the ongoing concerns about the issue.

362. The Committee calls upon the State party to intensify its efforts to address the issue of violence against women, including domestic violence, as an infringement of their human rights. In particular, the Committee urges the State party to broaden the Law for the Prevention of Spousal Violence and the Protection of Victims so as to include different forms of violence, increase the penalty for rape and include incest as a specific crime in its penal legislation, and implement policies in accordance with the Committee's

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general recommendation 19, in order to prevent violence; provide protection, support and other services to the victims; and punish offenders. The Committee recommends that revocation of residence permits of foreign but separated married women who experience domestic violence be undertaken only after a full assessment of the impact of such measures on those women. The Committee recommends that the State party endeavour to find a lasting solution for the matter of “wartime comfort women”.

...

373. While noting with satisfaction that the Government submitted a Human Rights Protection Bill to the Diet in March 2002, the Committee is concerned about the independence of the proposed human rights commission, which would be placed under the Ministry of Justice.

374. The Committee recommends that the human rights commission proposed in the Human Rights Protection Bill be established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134 of 20 December 1993, annex, known as the “Paris Principles”) in order to ensure that it will be an independent institution and adequately address women’s human rights.

375. The Committee encourages the State party to continue to consider the ratification of the Optional Protocol to the Convention, while noting the concerns expressed by the State party in its fifth periodic report. The Committee strongly believes that the mechanisms available under the Optional Protocol would strengthen the independence of the judiciary and assist it in understanding discrimination against women.

- New Zealand, CEDAW, A/58/38 part II (2003) 138 at paras. 405, 406, 417, 418, 425 and 426.

405. The Committee notes with concern that the Convention on the Elimination of All Forms of Discrimination against Women has not acquired a specific statute to achieve domestic implementation.

406. The Committee recommends that the State party take appropriate measures to incorporate all the provisions of the Convention into domestic law.

...

417. The Committee is concerned that women who complain about sex discrimination, including sexual harassment, in the workplace run a serious risk of being dismissed.

418. The Committee recommends that the State party take measures to ensure that women who file complaints against sexual harassment have a legal right to remain in their job.

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...

425. Taking note of the efforts made by the State party to combat discrimination against refugee and migrant women in New Zealand, the Committee expresses concern at the continuing discrimination suffered by immigrant, refugee and minority women and girls, based on their ethnic background, particularly with respect to education, health, employment, violence against women, and in regard to permanent residence status.

426. The Committee urges the State party to take effective measures to eliminate discrimination against refugee, migrant and minority women and girls, and to strengthen its efforts to combat xenophobia and racism in New Zealand. It also encourages the State party to be more proactive in its measures to prevent discrimination against these women and girls 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, and to provide for their needs with respect to education, employment and health care...

- Kuwait, CEDAW, A/59/38 part I (2004) 15 at para. 79.

79. The Committee requests the State party to recognize that violence against women constitutes a violation of the human rights of women under the Convention...In the light of general recommendation 19, the Committee calls upon the State party to ensure that all forms of violence against women and girls are prosecuted and punished promptly and that victims have immediate means of redress and protection...

- Bhutan, CEDAW, A/59/38 part I (2004) 21 at paras. 99-102.

99. The Committee is concerned that existing legislation does not contain a specific definition of discrimination against women in accordance with article 1 of the Convention, which prohibits both direct and indirect discrimination.

100. The Committee urges the State party to take full advantage of the ongoing process of elaborating a constitution to include the principle of equality between women and men, as well as a definition of discrimination against women, in the draft Constitution. The Committee recommends that, in drafting its Constitution, the State party also be guided by other International human rights instruments. The Committee calls on the State party to adopt its draft Constitution in an expeditious manner.

101. The Committee is concerned that, in the event of conflict between the international conventions to which Bhutan is a party and domestic legislation, domestic law may prevail.

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102. The Committee recommends that the State party incorporate in the Constitution the primacy of international conventions to which Bhutan is a party over domestic law in case of conflict. The Committee also recommends that the State party under all circumstances undertake awareness-raising and sensitization of the judiciary and other law enforcement authorities about the Convention.

- Kyrgyzstan, CEDAW, A/59/38 part I (2004) 28 at paras. 151-154.

151. While noting that, in accordance with the Constitution of Kyrgyzstan, the Convention is an integral and directly applicable part of Kyrgyz law, and that a number of laws have been adopted to promote gender equality, the Committee is concerned that women have seldom, if at all, used the Convention or existing laws to challenge acts of discrimination and that there is no record of court decisions in which women have obtained redress for such acts.

152. The Committee urges the State party to ensure that Kyrgyz law provides adequate, accessible and affordable enforcement procedures and legal remedies for violation of women's human rights...

153. The Committee is concerned that the judiciary, law enforcement personnel and women in general are not familiar with the Convention or with existing laws to promote gender equality, including the law on social and legal protection against violence in the family, and the procedures for their application and enforcement.

154. The Committee urges the State party to introduce education and training programmes on the Convention and on existing laws to promote gender equality, in particular for the judiciary, law enforcement personnel and parliamentarians. It recommends that awareness-raising campaigns targeted at women be undertaken to enhance women's awareness of their rights and to ensure that women can avail themselves of procedures and remedies for violations of their rights under the Convention and those laws.

- Nepal, CEDAW, A/59/38 part I (2004) 34 at paras. 195-197, 210 and 211.

195. The Committee acknowledges that the judiciary has rendered a number of gender-sensitive decisions, thereby contributing to enhancing the status of women and protecting their rights in the territory of the State party.

196. While noting that a high-level committee has submitted a report identifying

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remaining discriminatory laws to the Prime Minister and that the Ministry of Women, Children and Social Welfare has been directed to take immediate action, the Committee reiterates the concern already expressed in the concluding comments on the initial report that the State party has not taken sufficient action to amend prevailing discriminatory laws.

197. The Committee urges the State party to expedite action and to establish a specific timetable for amending discriminatory laws without further delay in order to comply with its obligation under article 2 of the Convention.

...

210. Recognizing the efforts made by the State party to address the issue of trafficking in women and girls, the Committee remains concerned about the continuing prevalence of this problem in Nepal. It is also concerned about the large discrepancy between reported instances of trafficking and the actual number of cases brought to court. It is further concerned that the enactment of the amendment to the Human Trafficking (Control) Act has been delayed.

211. The Committee urges the State party to intensify its efforts to address trafficking in women and girls. It recommends that its anti-trafficking strategy should include measures of prevention, the prosecution and punishment of perpetrators and increased international, regional and bilateral cooperation...

- Ethiopia, CEDAW, A/59/38 part I (2004) 42 at paras. 241, 242, 255 and 256.

241. The Committee, while welcoming the integration of the Convention and the inclusion of equality provisions in the Constitution, is concerned about the slow progress in the implementation of the provisions of the Convention in the State party since the consideration of the State party's combined initial, second and third periodic report in 1996.

242. The Committee urges the State party to enforce the supremacy of the Constitution over regional laws and encourages it to proceed, as a matter of urgency, with the full implementation of the provisions of the Convention throughout the country, including through enhanced cooperation between the federal and regional governmental bodies and institutions, so as to achieve uniformity of results in the implementation of the Convention. It calls on the State party to enhance its efforts for, and systematically monitor progress achieved in, the implementation of the Convention at all levels and in all areas. To that end, the Committee recommends that the State party place particular focus on improving the capacity of all public officials in the area of women's human rights and seek resources through international development assistance programmes, as necessary. The Committee also calls on the State party to launch, at the national level, a

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comprehensive programme of dissemination of the Convention, targeting women and men, in order to enhance awareness about and promote and protect the rights of women.

...

255. The Committee is concerned that no specific legislation has been enacted to combat violence against women, including domestic violence, and at the lack of systematic data collection on violence against women, particularly domestic violence. The Committee is also concerned that, while abduction has been recognized as a crime under the Ethiopian criminal code, the implementation of the law is weak and abductions tend to be resolved through discriminatory customary laws and practice. The Committee is also concerned about the incidence of rape in the country.

256. The Committee urges the State party to expedite the adoption and implementation of a national strategy to combat violence against women, to include, *inter alia*, legislation on violence against women, including domestic violence; the collection of data on all forms of violence against women; and research into the extent of violence against women and girls. The Committee calls upon the State party to ensure that all forms of violence against women are prosecuted and punished adequately and that victims have immediate means of redress and protection, in accordance with general recommendation 19. The Committee also recommends that the State party step up its efforts, through public awareness and education campaigns targeting the general public, with a particular focus on the judiciary, the police and medical personnel, to bring about attitudinal and behavioural changes to make such violence socially and morally unacceptable.

- Nigeria, CEDAW, A/59/38 part I (2004) 49 at paras. 291, 292 and 295-298.

291. The Committee is concerned that, although Nigeria ratified the Convention in 1985, the Convention still has not been domesticated as part of Nigerian law. It notes with concern that, short of such full domestication, the primacy of the Convention over domestic law is not clarified nor is the Convention justiciable and enforceable in Nigerian courts.

292. The Committee urges the State party to place high priority on completing the process of full domestication of the Convention. It calls on the State party to ensure that the Convention and related domestic legislation are made an integral part of legal education and the training of judicial officers, including judges, lawyers and prosecutors, so as to firmly establish in the country a legal culture supportive of women's equality and non-discrimination.

...

295. The Committee notes with concern the existence of a three-pronged legal system, namely, statutory, customary and religious law, which results in a lack of compliance by the State party with its obligations under the Convention and leads to continuing

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discrimination against women.

296. The Committee urges the State party to take proactive and innovative measures, including full domestication of the Convention, to remove contradictions among the three legal systems and to ensure that any conflict of law with regard to women's rights to equality and non-discrimination are resolved in full compliance with the provisions of the Convention and general recommendation 21 on equality in marriage and family relations. It also urges the State party to step up its efforts at awareness-raising with regard to the Convention in order to create an enabling environment for legal reform and legal literacy.

297. The Committee is concerned about the continuing prevalence of violence against women and girls, including domestic violence and sexual harassment in the workplace. The Committee notes with concern that a bill on violence against women proposed in 2002 has yet to be acted on by the National Assembly.

298. The Committee urges the State party to place high priority on putting in place comprehensive measures to address all forms of violence against women in the family and in society and to recognize that such violence constitutes a violation of the human rights of women under the Convention, and in the light of general recommendation 19 on violence against women. The Committee calls upon the State party to speed up its efforts at adoption of legislation on violence against women, including domestic violence and sexual harassment, and to ensure that all forms of violence against women are prosecuted and punished with the required seriousness and speed. The Committee stresses that all women victims of violence should have access to protection and effective means of redress. The Committee recommends gender-sensitive training for public officials, in particular for law enforcement personnel, the judiciary and health service providers, and the establishment of shelters and other services for victims of violence and sexual harassment. The Committee invites the State party to take awareness-raising measures through the media and public education programmes to make such violence socially and morally unacceptable.

- Belarus, CEDAW, A/59/38 part I (2004) 55 at paras. 333, 334, 341 and 342.

333. The Committee expresses concern that, while article 22 of the Constitution states that all citizens have the right, without any discrimination, to equal protection of their rights, the Constitution does not contain a prohibition of discrimination on the basis of sex or an explicit provision on gender equality.

334. The Committee urges the State party to include in its Constitution a provision prohibiting discrimination on the basis of sex or an explicit provision on gender equality.

...

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341. The Committee is concerned that there is insufficient awareness of the Convention and the procedures for its application and enforcement, as well as of women's human rights in general, including among the judiciary, law enforcement personnel and women themselves.

342. The Committee urges the State party to introduce education and training programmes on the Convention, in particular for parliamentarians, the judiciary, the police and other law enforcement personnel. It recommends that awareness-raising campaigns targeted at women be undertaken to enhance women's awareness of their human rights and to ensure that women can avail themselves of procedures and remedies for violations of their rights under the Convention.

- Germany, CEDAW, A/59/38 part I (2004) 62 at paras. 390 and 391.

390. The Committee is concerned that the Convention has not received the same degree of visibility and importance as regional legal instruments, particularly European Union directives, and is therefore not cited regularly as the legal basis for measures, including legislation, for the elimination of discrimination against women and the advancement of women in the State party.

391. The Committee urges the State party to place greater emphasis on the Convention as a legally binding human rights instrument in its efforts to achieve the goal of gender equality. It also urges the State party to take proactive measures to enhance awareness of the Convention, in particular among parliamentarians, the judiciary and the legal profession at both the Federal level and the level of the Länder.

- Latvia, CEDAW, A/59/38 part II (2004) 103 at paras. 43, 47 and 48.

43. The Committee welcomes progress in legislative reform, in particular the Labour Law (1 June 2002) which prohibits direct and indirect discrimination, and regulates job advertisements, job interviews and issues of equal remuneration and liability for gender-based discrimination...

...

47. Although international human rights treaties are directly applicable, the Committee is concerned that neither women in general, nor the judiciary or law enforcement personnel in particular are sufficiently familiar with the Convention and the opportunities for its application by domestic courts.

48. The Committee calls upon the State party to take additional measures to disseminate information about the Convention and implement programmes for judges and

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lawyers that include the application of the Convention at the domestic level. It also recommends that sustained awareness-raising campaigns targeting women and non-governmental organizations working on women's issues be undertaken to encourage and equip women to avail themselves of procedures and remedies for violations of their rights under the Convention.

- Malta, CEDAW, A/59/38 part II (2004) 111 at paras. 93, 115 and 116.

93. The Committee commends the State party for the creation of the Office of the Ombudsman whose mandate includes the consideration of complaints concerning discrimination on the grounds of sex.

...

115. The Committee notes with concern that the Domestic Violence Bill has been under discussion since March 2000. The Committee is also concerned that, under the Criminal Code, the crime of rape must be associated with violence and that rape as well as violent assault is considered in the Criminal Code under the title "Of Crimes against the Peace and Honour of Families and against Morals".

116. In light of its general recommendation 19, the Committee urges the State party to give high priority to the adoption of the pending legislation on domestic violence, which is a form of discrimination against women and a violation of their human rights. The Committee calls upon the State party to define the crimes of rape and violent assault as crimes against the physical and mental integrity of women and as a form of discrimination that seriously inhibits women's ability to enjoy their human rights and fundamental freedoms on a basis of equality with men.

- Angola, CEDAW, A/59/38 part II (2004) 118 at paras. 140, 141, 152 and 153.

140. The Committee is concerned that the Convention has not yet been domesticated as part of Angolan law. It notes that, short of such full domestication, the status of the Convention *vis-à-vis* domestic law is not clarified, nor is it clear if the Convention is justiciable and enforceable in Angolan courts. The Committee also notes with concern that the provisions of the Convention have not yet been widely disseminated nor are they widely known by judges, lawyers and prosecutors. The Committee is further concerned about the lack of proper understanding of and respect for women's human rights and that women themselves are not made aware of their rights, and thus lack the capacity to claim them.

141. The Committee recommends that the State party take immediate measures to

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ensure that the Convention becomes fully applicable in the domestic legal system. It calls on the State party to ensure that the Convention and related domestic legislation are made an integral part of legal education and the training of judicial officers, including judges, lawyers and prosecutors, so as to establish firmly in the country a legal culture supportive of women's equality and non-discrimination. It also calls on the State party to disseminate the Convention widely to the general public so as to create awareness of women's human rights. It invites the State party to take special measures to enhance women's awareness of their rights and legal literacy so that they can claim all their rights.

...

152. While it commends the State party for recognizing the gravity and extent of the problem of violence against women and girls and its ongoing efforts to combat such violence, including in cooperation with non-governmental organizations, the Committee is concerned about the lack of specific legislation on violence against women, including on domestic violence, as well as the lack of adequate policies, programmes and services and their effective implementation and enforcement. The Committee is also concerned about the attitude of law enforcement officers towards women who report cases of violence, which results in women victims' reluctance to report such cases of abuse.

153. The Committee urges the State party to place high priority on putting comprehensive measures in place to address all forms of violence against women and girls, recognizing that such violence constitutes a violation of the human rights of women under the Convention and further elaborated in the Committee's general recommendation 19 on violence against women. The Committee calls on the State party to enact legislation on violence against women, including on domestic violence and sexual abuse, as soon as possible, so as to ensure that violence against women constitutes a criminal offence, that women and girls victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished. The Committee recommends that the State party intensify its public awareness-raising efforts on violence against women and implement training for public officials, especially police and law enforcement personnel, the judiciary and health and social workers and community leaders, in order to ensure that they are sensitized to the unacceptability of all forms of violence against women and adequately support victims of such violence. The Committee also recommends that the State party take appropriate measures to increase the availability of legal aid throughout the country in order to assist and advise women victims of violence.

- Equatorial Guinea, CEDAW, A/59/38 part II (2004) 126 at paras. 191 and 192.

191. The Committee is concerned about the existence of the dual legal system of civil law and customary law, which results in continuing discrimination against women, particularly in the field of marriage and family relations. The Committee is also

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concerned about the lack of legislation regulating customary marriages and other aspects of family law that discriminate against women, including in respect of polygamy, inheritance and child custody, and that efforts to adopt legislation regulating customary marriages have so far not been successful. The Committee is further concerned that most women lack the necessary information and resources to gain access to the civil courts and are still subject to the jurisdiction of traditional courts that apply customary law.

192. The Committee urges the State party to accelerate the process of law reform to remove inconsistencies between civil law and customary law, including by enacting legislation and ensuring that any conflict of law with regard to women's rights to equality and non-discrimination is resolved in full compliance with the provisions of the Convention and general recommendation 21, on equality in marriage and family relations. In this regard, the Committee urges the State party to put in effect measures to discourage polygamy and to ensure women's equal rights in inheritance and child custody. The Committee further urges the State party to put in place measures to ensure women's access to the civil courts, including raising awareness on available legal remedies and the provision of legal aid.

- Bangladesh, CEDAW, A/59/38 part II (2004) 134 at paras. 239, 240, 247, 248, 259 and 260.

239. The Committee is concerned that the Convention has not yet been incorporated into domestic law and its provisions cannot be invoked before the courts.

240. The Committee calls upon the State party to incorporate without delay the provisions of the Convention into its domestic law and requests the State party to ensure that the provisions of the Convention be fully reflected in the Constitution and all legislation.

...

247. The Committee is concerned about the unequal status of Bangladeshi women within the family, particularly in matters related to marriage, divorce, custody, alimony and property inheritance. The Committee expresses concern that personal laws, derived from religious precepts which are discriminatory to women, continue to prevail in the country and that no uniform Family Code is in place.

248. The Committee urges the State party to adopt without delay a uniform Family Code that fully complies with the provisions of the Convention and general recommendation 21 on equality in marriage and family relations, as a way to protect the rights of all Bangladeshi women in matters related to marriage, divorce, custody, alimony and property inheritance. It recommends that the State party step up its efforts to provide awareness-raising and training, including on the importance of a uniform Family Code

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and the State party's obligations under the Convention, to community leaders.

...

259. The Committee is concerned about the impact of the arsenic poisoning of water, which is disproportionately affecting rural women of reproductive age.

260. The Committee urges the State party to put in place measures for ensuring that safe drinking water is available to all, and particularly to affected rural women and their families. The Committee calls on the State party to prepare without delay a plan of action containing preventative and remedial measures, and prioritizing technologies favoured by rural women, their families and local communities that are risk-free, cost-effective and provide alternatives to underground water withdrawal. The Committee recommends that the State party launch an awareness campaign and proactive health, nutrition and social programmes for affected rural women, their families and local communities. The Committee also calls on the State party to encourage all other actors, who directly or indirectly caused the arsenic crisis, to share in the financial burden of compensating the victims.

- Dominican Republic, CEDAW, A/59/38 part II (2004) 141 at paras. 280, 284 and 285.

280. The Committee congratulates the State party for signing the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime, in December 2000 and for passing and promulgating the Trading and Trafficking in Persons Act in 2003. The Committee also commends the elaboration of the National Plan for Prevention and Prosecution of Trading and Trafficking in Persons and Protection of the Victims, which provides for specific measures, such as the promotion of local networks to prevent trafficking and provide assistance to victims and the establishment of shelters for women victims of trafficking.

...

284. Although the Committee welcomes the reform of the Civil and Penal Codes and the active role that the State Secretariat for Women has played in advancing proposals for the draft bill to amend these codes, it notes with concern that passage of the Penal Code bill as it now stands would constitute a reversal of some of the advances made in the area of women's human rights by eliminating the definition of violence against women contained in Act No. 24-97, reducing the penalties for domestic violence, eliminating incest as a defined crime, penalizing abortion in cases of rape and bringing criminal charges or suspending sentence in cases of rape if the perpetrator marries the minor victim.

285. The Committee requests the State party to play a stronger role in the process of reform of the Civil and Penal Codes, since it offers an historic opportunity to ensure that

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the new legislation is in conformity with the provisions of the Convention and the principle of equality between women and men enshrined in the Constitution. The Committee urges the State party to push for the proposed amendments to the draft bill to ensure that the new Penal Code will be in harmony with general recommendation No. 19 concerning violence against women.

- Spain, CEDAW, A/59/38 part II (2004) 149 at paras. 334, 335, 338, 339, 348 and 349.

334. While welcoming the efforts of the State party to address violence against women, including the adoption of the second Comprehensive Plan against Domestic Violence (2001-2004), the Committee is concerned about the prevalence of violence against women, particularly the alarming number of reported murders of women by current and former spouses or partners.

335. The Committee calls upon the State party to intensify its efforts to address the issue of violence against women, including domestic violence, as an infringement of their human rights. In particular, the Committee underlines the need to adopt, implement and monitor the effectiveness of laws and policies in accordance with the Committee's general recommendation 19, in order to prevent violence, provide protection, support and services to the victims and punish and rehabilitate offenders. It recommends that the State party ensure that public officials, especially law enforcement officials, the judiciary, health-care providers and social workers, are fully sensitized to all forms of violence against women...

...

338. Noting that since 1999, there has been a quadrupling of immigration into Spain, the Committee is concerned about the multiple forms of discrimination migrant women, including those who are undocumented, may face by public authorities, private employers and individuals, as well as the difficulties in becoming integrated into Spanish society.

339. The Committee urges the State party to take effective measures to eliminate discrimination against migrant women, both within immigrant communities and in society at large, and to ensure that the women concerned are made aware of available social services and legal remedies and are being supported in accessing them.

...

348. The Committee is concerned about information that women who begin doctoral studies do not complete their dissertations at as high a rate as men.

349. The Committee recommends that the State party increase women's access to resources, including grants, and to childcare facilities, to enable them to complete their dissertations at the same rate as men do.

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- Argentina, CEDAW, A/59/38 part II (2004) 155 at paras. 374 and 375.

374. The Committee is concerned about the poor working conditions women endure in both the formal and informal sectors of the economy. It is particularly concerned about the persistence of wage disparities between women and men, which are discriminatory, and about the lack of social benefits and services for women. The Committee is concerned that in the prevailing situation of economic difficulty and uncertainty, women may face even greater obstacles than usual in claiming their rights and taking steps against discriminatory practices and attitudes in their employment and economic activities.

375. The Committee urges the State party to make all necessary efforts to ensure the enforcement of legislation requiring employers to provide equal pay for equal work, as well as efforts to ensure that women receive adequate social benefits and services. It also calls on the State party to ensure full adherence to existing legislation so that women can use means of redress without fear of reprisals from employers.

- Samoa, CEDAW, A/60/38 part I (2005) 9 at paras. 48 and 49.

48. While noting that the Government has identified several areas where legislation inadequately protects women against discrimination, namely, in regard to gender-based violence and in family and employment law, the Committee is concerned that no time line or benchmarks are in place for undertaking the legal reform efforts necessary to bring domestic legislation into conformity with the Convention. The Committee is also concerned that, although the Law Reform Commission Act was passed in 2002, the office has not yet been established for lack of resources.

49. The Committee recommends that the State party put in place without delay a plan, with a clear timetable and priorities, for the revision of existing discriminatory legislation and the drafting and submission to Parliament of new laws to promote gender equality. The Committee also recommends the establishment of the office of the Law Reform Commission in order to expedite the legal reform process. The Committee encourages the Government to consult with women's organizations in the development and prioritization of such a legislative reform agenda.

- Lao People's Democratic Republic, CEDAW, A/60/38 part I (2005) 16 at paras. 88 and 89.

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88. The Committee is concerned that the status of the Convention *vis-à-vis* domestic legislation is unclear. While noting that the legal framework of the Lao People's Democratic Republic is relatively new, the Committee is concerned that no definition of discrimination against women exists in national laws.

89. The Committee recommends that the State party take measures to bring the Convention into the domestic legal system and ensure that it can be invoked in the courts. It also recommends that the definition of discrimination against women set forth in article 1 of the Convention be incorporated in the Constitution or other appropriate legislation.

- Algeria, CEDAW, A/60/38 part I (2005) 23 at paras. 135, 145 and 146.

135. The Committee commends the State party for including the offence of sexual harassment in the revised Penal Code.

...

145. The Committee is concerned that, although women's access to justice is provided for by law, their ability in practice to exercise this right and to bring cases of discrimination before the courts is limited.

146. The Committee requests the State party to remove impediments women may face in gaining access to justice, including through sensitization about available legal remedies against discrimination, and to monitor the results of such efforts.

- Croatia, CEDAW, A/60/38 part I (2005) 30 at paras. 198 and 199.

198. While recognizing the State party's efforts to address violence against women, the Committee is concerned about the high incidence of domestic violence, the limited number of shelters available for women victims of violence and the lack of clear procedures, or protocols, for law enforcement and health-care personnel who respond to cases of domestic violence. The Committee is also concerned about the high costs of legal representation in courts, which may be an obstacle to women victims of violence seeking redress through the justice system.

199. The Committee urges the State party to place high priority on the implementation of the Law on Protection from Family Violence and to make it widely known to public officials and society at large, as well as promptly to complete and implement its national strategy for protection from domestic violence which is under preparation. The Committee calls upon the State party to ensure that violence against women is prosecuted and punished, and to facilitate women's access to legal aid. The Committee urges the State party to ensure that enough shelters are available to women victims of violence. It

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also calls on the State party to ensure that public officials, especially law enforcement personnel, the judiciary, health-care providers and social workers, are fully familiar with applicable legal provisions, and are sensitized to all forms of violence against women and adequately respond to them.

- Gabon, CEDAW, A/60/38 part I (2005) 37 at paras. 223, 229, 230, 233 and 236.

223. The Committee notes with satisfaction that, following ratification and official publication, international conventions, including the Convention on the Elimination of All Forms of Discrimination against Women, prevail over national laws and are directly applicable at the national level.

...

229. While noting that women's access to justice and redress for alleged violations of their rights is provided for by law, the Committee is concerned that their ability to exercise this right in practice and to bring cases of discrimination before the courts may be inhibited by economic or cultural obstacles.

230. The Committee urges the State party to remove impediments and ensure access to affordable, effective and expeditious means of redress for women, including through awareness-raising about the availability of remedies against discrimination, and the provision of legal aid. The Committee also encourages the State party to monitor the effectiveness of such efforts.

...

233. The Committee is concerned about the lack of specific legislation to eliminate violence against women, including domestic violence.

...

236. In accordance with its general recommendation 19, the Committee urges the State party to give high priority to putting in place comprehensive measures to address all forms of violence against women and girls, recognizing that such violence is a form of discrimination against women and constitutes a violation of their human rights under the Convention. The Committee calls upon the State party to enact, as soon as possible, legislation on violence against women, including domestic violence, so as to ensure that violence against women constitutes a criminal offence, that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished. The Committee recommends that the State party also implement educational and awareness-raising measures aimed at law enforcement officials, the judiciary, health providers, social workers, community leaders and the general public, in order to ensure that they are sensitized to the unacceptability of all forms of violence against women. It also recommends the introduction of measures to provide medical, psychological and legal assistance to victims of violence.

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- Paraguay, CEDAW, A/60/38 part I (2005) 44 at paras. 275-280.

275. The Committee expresses concern that, while the Constitution recognizes equality of women and men in its articles 47 and 48, a definition of discrimination in accordance with article 1 of the Convention and prohibition of such discrimination is lacking in the Constitution or in other national legislation. The Committee is also concerned that, although the Convention forms part of national legislation and may be invoked before the courts, there are no cases in which this has actually occurred. The Committee is furthermore concerned about the lack of legal literacy programmes for women.

276. The Committee calls upon the State party to take urgent steps to incorporate a definition of discrimination against women as contained in article 1 of the Convention into the Constitution or other national legislation. It also requests the State party to take steps to ensure that the provisions of the Convention can be effectively enforced within the national legal framework. The Committee invites the State party to take steps to enhance women's awareness of their rights so that they can claim all their rights.

277. The Committee notes with concern that, although the Constitution refers to the principle of equality, the term mostly used in plans and programmes is "equity", which the State party considers to be a compensatory means of achieving equality.

278. The Committee urges the State party to take note that the terms "equity" and "equality" are not synonymous or interchangeable and that the Convention is directed towards eliminating discrimination against women and ensuring *de jure* and *de facto* equality between women and men. The Committee therefore recommends that the State party use the term "equality" henceforth.

279. While commending the State party on the adoption of Act No. 1600 on domestic violence, which provides protective measures to women and other members of the household, in particular children and the elderly, the Committee expresses concern that the penalty imposed on perpetrators of such violence is only a fine. It is also concerned that provisions contained in the Penal Code in relation to domestic violence and sexual abuse inadequately penalize such acts.

280. The Committee urges the State party to take a comprehensive approach to violence against women and girls. To that end, the Committee urges the State party to undertake, without delay, a revision of article 229 of Act No. 1600 on domestic violence and of articles 136 and 137 of the Penal Code to bring them into line with the Convention and the Committee's general recommendation 19, to combat effectively all forms of violence against women, including physical, psychological and economic violence, by ensuring that perpetrators of such acts are prosecuted and punished and that women are effectively

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protected against reprisals. The Committee calls upon the State party to establish shelters and other services for victims of violence. The Committee invites the State party to intensify its efforts to increase awareness among public officials, especially law enforcement officials, the judiciary, health-care providers and social workers and to reinforce the notion that such violence is socially and morally unacceptable and constitutes discrimination against women and violates their human rights. The Committee encourages the State party to enhance collaboration and coordination with civil society organizations, in particular women's associations, to strengthen the implementation and monitoring of legislation and programmes aimed at eliminating violence against women.

- Democratic People's Republic of Korea, CEDAW, A/60/38 part II (2005) 101 at paras. 43, 44, 55, 56, 69 and 70.

43. While the Committee notes that the people's committees address and regulate almost every aspect of people's lives, including women's lives at every level, it is concerned that the committees and their procedures may not address women's rights and needs on an equal basis with those of men. It is also concerned about the apparent lack of effective remedies for complaints of violations of the rights of women.

44. The Committee recommends that the State party ensure adequate representation of women in the people's committees and that training be given to the committees concerning women's rights to equality and the obligations under the Convention. The Committee urges the State party to put in place effective remedies for all forms of discrimination against women, in line with article 2(c) of the Convention. It also recommends that the State party establish a mechanism to monitor the effectiveness of such remedies.

...

55. The Committee expresses concern that the State party is not aware of the existence of domestic violence and that, as a result, there is a lack of specific legislation to deal with all forms of violence against women, including domestic violence, and a lack of prevention and protection measures for victims.

56. The Committee calls on the State party to conduct research on the incidence, causes and consequences of all forms of violence against women, including domestic violence...In this regard the Committee urges the State party to find ways to make visible the existence of domestic violence, for example by training health workers to identify signs of abuse. It also recommends that the State party adopt specific legislation on domestic violence and ensure that violence against women and girls constitutes a criminal offence, that women and girls who are victims of violence have access to

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immediate means of redress and protection and that perpetrators are prosecuted and punished. It also urges the State party to address all forms of violence against women and girls in accordance with its general recommendation 19 on violence against women and to accord priority attention to the adoption of comprehensive measures, including the training of law enforcement agencies in responding effectively to victims of violence.

...

69. The Committee is concerned about the lack of women's (human rights) organizations and of an independent human rights institution to monitor the implementation of the State party's obligations under the Convention.

70. The Committee recommends that the State party provide an environment that encourages the establishment of women's (human rights) organizations, in accordance with article 7(c) of the Convention. It also calls on the State party to create an independent human rights institution with oversight responsibilities for the implementation of the State party's obligations under the Convention.

- Lebanon, CEDAW, A/60/38 part II (2005) 109 at paras. 95, 96, 109 and 110.

95. The Committee is concerned that the State party's legislation does not contain provisions guaranteeing equality on the basis of sex as required under article 2 (a) of the Convention.

96. The Committee urges the State party to include provisions guaranteeing equality on the basis of sex, in line with article 2 (a) of the Convention, in the Constitution or in other appropriate legislation. In this regard, the Committee recommends that consideration be given to including the Convention on the Elimination of All Forms of Discrimination against Women among the international human rights instruments mentioned in the preamble to the Constitution.

...

109. The Committee notes with concern that, despite law reform in the field of employment, women remain disadvantaged in the labour market, which is characterized by strong occupational segregation and the persistence of a gender wage gap.

110. The Committee requests the State party to step up its efforts to eliminate occupational segregation and to ensure equal opportunities for women and men in the labour market. It also recommends that the State party establish a monitoring mechanism to ensure the enforcement of legislation requiring employers to provide equal pay for work of equal value. The Committee requests that effective measures be taken to support the reconciliation of family and professional responsibilities and to promote the sharing of domestic and family responsibilities between women and men.

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- Benin, CEDAW, A/60/38 part II (2005) 116 at paras. 145, 146 and 149-152.

145. While the Committee notes with satisfaction that, following ratification, international treaties prevail over national laws, it remains concerned about the status of implementation of the Convention. In particular, the Committee is concerned about limited compliance in national laws and policy with the provisions of the Convention and the definition of discrimination contained in article 1. The Committee is especially concerned about the State party's narrow focus primarily on *de jure* equality rather than the realization also of *de facto*, or substantive, equality of women as required under the Convention. The Committee is concerned about lack of efforts to assess the impact of laws and policies on women's equality in such sectors as decision-making, education, employment and health.

146. The Committee recommends that the State party review all its laws, policies and programmes to ensure compatibility and compliance with the Convention and take all appropriate legislative and other measures to ensure that women enjoy *de facto* equality with men in all sectors, including adequate sanctions prohibiting direct and indirect discrimination against women as defined in article 1 of the Convention, as well as remedies for violation of rights. It recommends the implementation of campaigns to raise awareness about the Convention and the State party's obligations under the Convention, including the meaning and scope of substantive equality between women and men. Such efforts should be aimed at the general public and especially at public officials, the judiciary and the legal profession. The Committee calls on the State party to assess progress towards the achievement of women's *de facto* equality in all sectors...

...

149. The Committee is concerned about the absence of policies and programmes, including legislation, to address violence against women and the economic exploitation and ill-treatment of young girls employed as domestic servants. The Committee is particularly concerned about the perception prevalent in the State party that violence against women, particularly domestic violence, is a private matter, and about the reluctance of women to report incidents of violence committed against them...

150. The Committee urges the State party to accord priority attention to the adoption of comprehensive measures to combat violence against women and girls, in accordance with its general recommendation 19 on violence against women. The Committee calls on the State party to enact legislation on domestic violence, including marital rape, and legislation concerning all forms of sexual abuse, and to ensure that women and girls, including domestic servants, who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished. The Committee recommends that training be undertaken for the judiciary and public officials, particularly law enforcement personnel, and for health-service providers, so as to ensure that they are sensitized to all forms of violence against women and can adequately

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respond to it. It also recommends the implementation of awareness-raising campaigns, through the media and public education programmes, and working towards a zero-tolerance policy on all forms of violence against women...

151. While welcoming the adoption of measures to prevent and combat trafficking in children, the Committee is concerned that similar measures have not been undertaken with regard to trafficking in women.

152. The Committee urges the State party to take measures to combat trafficking in women through the adoption and implementation of a comprehensive strategy, including national laws and subregional cross-border initiatives, to prevent trafficking, punish offenders and protect and rehabilitate victims.

- Gambia, CEDAW, A/60/38 part II (2005) 122 at paras. 187, 188 and 193-196.

187. The Committee is concerned that, although the Convention was ratified in 1993, it has not yet been fully incorporated into Gambian law. It notes with concern that, without such full incorporation, the Convention's provisions are not justiciable and enforceable in the Gambian courts.

188. The Committee urges the State party to place high priority on completing the process of full incorporation of the Convention in national legislation. It calls upon the State party to ensure that the Convention and related domestic legislation are made an integral part of legal education and the training of judicial officers, including judges, lawyers and prosecutors, so as to firmly establish in the country a legal culture supportive of women's equality and non-discrimination.

...

193. The Committee expresses concern about the lack of legislation, policies and programmes to address violence against women, including domestic violence...

194. The Committee requests the State party to adopt comprehensive measures to address violence against women and girls in accordance with its general recommendation 19. The Committee urges the State party to enact legislation on violence against women, including domestic violence, as soon as possible and to ensure that women and girls who are victims of any form of violence have access to immediate means of redress and protection, as well as access to counselling services, and that perpetrators are prosecuted and punished...The Committee recommends the implementation of training for law enforcement officials, the judiciary, health providers, social workers and the general public so as to ensure that they are sensitized to all forms of violence against women and can adequately respond to it. It also recommends the implementation of awareness-raising campaigns, through the media and public education programmes, and working towards a zero-tolerance policy on all forms of violence against women.

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195. The Committee expresses concern at the high incidence of female genital mutilation in the country and at the lack of legislation, policies and programmes aimed at eradicating that practice.

196. The Committee urges the State party to adopt and adequately implement legislation prohibiting female genital mutilation, and to ensure that offenders are adequately prosecuted and punished. It also recommends that the State party develop a plan of action, including public awareness-raising campaigns, targeted at both women and men, with the support of civil society, to eliminate the practice of female genital mutilation.

- Israel, CEDAW, A/60/38 part II (2005) 129 at paras. 239, 240, 249 and 250.

239. The Committee is concerned that only some provisions of the Convention have been incorporated into the domestic legal order. The Committee is also concerned about the lack of mechanisms to monitor and ensure the compatibility of domestic laws with the State party's obligations under the Convention.

240. The Committee urges the State party to fully incorporate the provisions of the Convention into its legal order and regularly assess the compatibility of its domestic laws with its obligations under the Convention. The Committee recommends that the State party implement training and awareness-raising programmes to familiarize judges, prosecutors and other members of the legal profession with the provisions of the Convention.

...

249. While appreciating the State party's efforts to address the issue of trafficking in women and girls, including ratification of the United Nations Convention against Transnational Organized Crime in 2000 and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children in 2001, the establishment of a Parliamentary Investigative Committee on trafficking of women and an amendment to the Penal Law prohibiting trafficking, the Committee is concerned that domestic legislation has not been brought into conformity with international obligations. While noting that a bill to broaden the definition of trafficking is under preparation, the Committee is concerned that the current definition of trafficking in the Penal Law addresses trafficking only for prostitution and bondage and does not cover trafficking for other forms of exploitation. The Committee also expresses concern about the lack of a comprehensive plan to prevent and eliminate trafficking in women and to protect victims, as well as the lack of systematic data collection on this phenomenon.

250. The Committee urges the State party to intensify its efforts to combat all forms of trafficking in women and girls, including by expanding the provision in the Penal Code

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to bring it into line with the definition contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Committee also urges the State party to increase its efforts at international, regional and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking and improve prevention of trafficking through information exchange. The Committee urges the State party to continue to collect and analyse data from the police and international sources, prosecute and punish traffickers, and ensure the protection of the human rights of trafficked women and girls. The Committee further calls on the State party to take all appropriate measures to suppress exploitation of prostitution of women, including discouraging the male demand for prostitution. The Committee calls on the State party to ensure that trafficked women and girls have adequate support to be in a position to provide testimony against their traffickers.

- Guyana, CEDAW, A/60/38 part II (2005) 136 at paras. 289-292.

289. The Committee is concerned about the persistence of discriminatory legal provisions, particularly the Criminal Law (Offences) Act provision which makes it a criminal act for a girl of 16 years to have sexual intercourse with a relative such as a grandfather or brother and making her liable to imprisonment for up to seven years; and the Married Persons Property Act that prevents non-working spouses from acquiring the same rights in matters of division of property and disproportionately affects women.

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

291. While welcoming laws to eliminate discrimination against women, including the Equal Rights Act of 1990 and the Prevention of Discrimination Act of 1997, the Committee is concerned about the lack of systematic enforcement of existing legislation, of mechanisms to monitor and ensure compliance, and of effective remedies in case of breach. The Committee is also concerned about the insufficient availability of legal aid to women, in particular women living in rural areas and hinterlands; their lack of awareness about legislation aimed at eliminating discrimination against women; and continuing reluctance, or inability of women to seek legal redress in cases of discrimination.

292. The Committee urges the State party to strengthen its efforts to protect women

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against any act of discrimination, including strengthening existing complaints mechanisms such as the Ombudsman and Chief Labour Officer, and putting in place sanctions for acts of discrimination against women. The Committee further urges the State party to ensure full compliance by public authorities and institutions with legislation aimed at prevention of discrimination against women, increase the availability of legal aid to women in all parts of the country and sensitize the judiciary and law enforcement personnel to gender equality issues. The Committee urges the State party to take special measures to enhance women's awareness of their rights and legal literacy so that they can better avail themselves of available remedies and mechanisms of redress against violations of their rights under the Convention.

- Burkina Faso, CEDAW, A/60/38 part II (2005) 144 at paras. 341-344.

341. While welcoming legislation prohibiting female genital mutilation, forced and early marriage, levirate and sororate, dowry and practices that prevent women from owning land and inheriting from their husbands, the Committee remains concerned about the continuing strong prevalence of patriarchal attitudes and deep-rooted stereotypes and of customs and traditions that discriminate against women, particularly women in rural areas, and constitute violations of their human rights. The Committee is concerned that these practices persist in contravention of the provisions of the Convention, as well as national legislation. The Committee is also concerned that women are not informed of remedies under relevant legislation.

342. The Committee calls upon the State party to take all necessary measures to ensure full compliance with the provisions of the Convention, the Individual and Family Code, the Penal Code and other laws in regard to harmful traditional or customary practices that violate women's rights. The Committee recommends that these efforts be undertaken in combination with educational programmes designed to raise awareness and challenge discriminatory customs and traditions and stereotypic attitudes regarding the roles and responsibilities of women in the family and society, as required under articles 2 (f) and 5 (a) of the Convention. The Committee encourages the State party to undertake these efforts in collaboration with civil society and women's and human rights organizations, and target women and men in all segments of society, including public officials at all levels of government and community and traditional leaders, as well as the general public. It also urges the State party to improve women's access to remedies, including through awareness-raising efforts and measures to enhance women's legal literacy.

343. While the Committee welcomes the adoption of a law to prevent and combat trafficking in children for purposes of exploitation of their labour, it is unclear that this legislation covers trafficking of children, especially girls, for sexual exploitation. The Committee is further concerned that similar measures have not been taken with respect to

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trafficking in women.

344. The Committee urges the State party to intensify its efforts to combat trafficking in girls and women for sexual exploitation. The Committee recommends that the State party implement a national strategy to combat trafficking in girls and women, which should include the prosecution and punishment of offenders and measures aimed at improving the economic situation of girls and women so as to eliminate their vulnerability to traffickers, educational initiatives, social support measures and rehabilitation and reintegration measures for girls and women who have been victims of trafficking.

- Ireland, CEDAW, A/60/38 part II (2005) 151 at paras. 380, 381 and 386-389.

380. The Committee notes that not all provisions of the Convention have been incorporated into the domestic law of the State party. It is concerned at the absence of a detailed definition of discrimination covering all areas of life, in accordance with article 1 of the Convention, the principle of equality between women and men, as set forth in article 2 (a) of the Convention and other specificities of the Convention, such as article 5 (a), which requires States to address social and cultural patterns that lead to discrimination and stereotyped roles for women and men, and article 14 on rural women.

381. The Committee recommends that the State party take appropriate measures to incorporate all the provisions of the Convention into domestic law and to ensure that effective remedies are available to women whose rights are violated. It also recommends the inclusion of a definition of discrimination against women in line with article 1 of the Convention, and the principle of the equality of women and men as set forth in article 2 (a) of the Convention in the Constitution or other appropriate legislation. It also recommends campaigns to raise awareness of the Convention, including its interpretation by the Committee through its general recommendations, aimed, *inter alia*, at parliamentarians, government officials, the judiciary and the legal profession.

...

386. While acknowledging the efforts made to address violence against women, including legislative measures, the provision of refuges and rape crisis centres, and research and awareness-raising initiatives, the Committee is concerned about the prevalence of violence against women and girls, low prosecution and conviction rates of perpetrators, high withdrawal rates of complaints and inadequate funding of organizations that provide support services to victims. The Committee is also concerned that insufficient information was provided on the question of sexual harassment, as requested in the previous concluding comments (A/54/38/Rev.1, part two, para. 188). The Committee is furthermore concerned about violence suffered by women from marginalized and vulnerable groups, including Traveller women, migrant women,

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asylum-seeking and refugee women and women with disabilities.

387. The Committee urges the State party to take all necessary measures to combat violence against women in conformity with the Committee's general recommendation 19, to prevent violence, punish offenders and provide services for victims. It recommends that the State party adopt without delay its strategic plan and systematically monitor and regularly evaluate the plan's components, particularly in relation to marginalized and vulnerable women, including Traveller women, migrant women, asylum-seeking and refugee women and women with disabilities. The Committee recommends that sustained training and awareness-raising initiatives be carried out for public officials, the judiciary, health professionals and members of the public. The Committee also recommends that the State party closely monitor the incidence of all forms of violence against women, including sexual harassment.

388. The Committee is concerned about trafficking in women and girls into Ireland, the lack of information on the extent of the problem and on specific legislation in this area, and the lack of a comprehensive strategy to combat it.

389. The Committee recommends the adoption and implementation of a comprehensive strategy to combat trafficking in women and girls, which should include preventive measures, the prosecution and punishment of offenders and the enactment of specific legislation in the area. The Committee also recommends that measures be put in place to provide for the physical, psychological and social recovery of women and girls who have been victims of trafficking, including the provision of shelter, counselling and medical care. It further recommends that border police and law enforcement officials be provided with the requisite skills to recognize and provide support for victims of trafficking...

CAT

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

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

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

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

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2001;

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

...

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

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

(b) The geographical and time limitations on the mandate of the proposed ad hoc human rights court on East Timor;

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

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

...

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

...

45. The Committee recommends that the State party:

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

(b) Establish an effective, reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill-treatment and torture by police and other officials and, where the findings so warrant, to prosecute and punish perpetrators, including senior officials;

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(c) Ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in paramilitary operations using torture will be appropriately prosecuted;

(d) Take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas-HAM), and ensure that all its reports to the Attorney-General are published in a timely fashion;

(e) Ensure that the proposed ad hoc human rights court for East Timor will have the capacity to consider the many human rights abuses which were alleged to have occurred there during the period between 1 January and 25 October 1999;

(f) Ensure that crimes under international law such as torture and crimes against humanity committed in the past are investigated and, where appropriate, prosecuted in Indonesian courts;

...

(i) Ensure that no person can be expelled, returned, or extradited to another State where there are substantial grounds for believing that that person would be in danger of being subjected to torture, in accordance with article 3;

...

- Israel, CAT, A/57/44 (2002) 27 at paras. 50, 52 and 53.

50. The Committee welcomes the following:

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

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

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

(d) The Israeli Supreme Court decision of April 2000 according to which the continued detention of Lebanese detainees held in Israel who did not constitute a threat to national security could not be authorized and the subsequent release of many Lebanese detainees;

...

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(f) The provision of prompt judicial review of persons under detention upon their petition to the Supreme Court;

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

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

...

52. The Committee expresses concern about the following matters:

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

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

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

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

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

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

...

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

(h) While noting that according to the delegation any allegation of physical violence against a detainee is always treated and investigated as a criminal offence, the Committee is concerned that the Department for the Investigation of Police Misconduct (DIPM) may decide that a police officer or ISA investigator should only be subject to disciplinary

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action, in lieu of criminal proceedings. This may amount to a violation of article 7, paragraph 1, of the Convention;

...

53. The Committee makes the following recommendations:

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

...

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

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

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

...

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

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

...

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

56. The Committee notes with appreciation:

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

...

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

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Convention;

(f) The establishment of the Office of the Commissioner for Human Rights (Ombudsman), charged with the protection of human rights in Ukraine, and that the Ombudsman can visit and have full access to all places where persons are deprived of liberty...

...

57. The Committee expresses its concern about the following:

...

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

...

58. The Committee recommends that the State party:

...

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

...

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

...

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

...

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

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

...

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

...

- Zambia, CAT, A/57/44 (2002) at paras. 61 and 64-66.

61. The Committee notes with satisfaction the following elements:

...

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- (b) The State party's commitment to:
- (i) Introduce a crime of torture in accordance with article 4 of the Convention;
 - (ii) Proceed urgently with appropriate legislation and other measures to ensure the incorporation of the Convention into domestic law;
 - (iii) Ensure the exclusion of confessions obtained by torture and to look into the issue of derivative evidence;
 - (iv) Make a declaration with respect to articles 21 and 22 of the Convention; and
 - (v) Remove the function of prosecution from the police to the Director of Public Prosecutions (DPP);

...

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

- (a) The definition of torture (art. 1);
- (b) The criminalization of torture (art. 4);
- (c) The prohibition of cruel punishment in the penal system (art. 16);
- (d) Recognition of torture as an extraditable offence (art. 8);
- (e) Systematic review of interrogation rules (art. 11); and
- (f) Jurisdiction over acts of torture, including those committed abroad (art. 5).

...

65. Concern is also expressed regarding:

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

...

66. The Committee recommends that the State party:

- (a) Incorporate the Convention into its legal system;

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

(c) Take appropriate measures to ensure jurisdiction over crimes of torture, wherever they may occur;

(d) Undertake legal and other measures to address impunity and ensure that acts of torture are prosecuted to the full extent of the law and that complainants have access to legal advice as necessary;

...

- Denmark, CAT, A/57/44 (2002) 37 at paras. 73 and 74.

73. The Committee is concerned about the following:

(a) The lack of a definition of torture, as provided in article 1 of the Convention, in the penal legislation of the State party and the lack of a specific offence of torture punishable by appropriate penalties, as required by article 4, paragraph 2, of the Convention;

(b) The lack of effective recourse procedures against decisions imposing solitary confinement upon persons servicing sentences;

(c) The proposed amendment to the Alien's Act, which may imply that aliens who have been refused a residence permit must leave the country immediately after the rejection of their application. If strictly applied, this will frustrate the effectiveness of article 22 of the Convention.

...

74. The Committee recommends that:

(a) The State party ensure the speedy implementation of the recommendation of the Ad Hoc Committee with regard to incorporating the Convention into Danish domestic law;

(b) Denmark establish adequate penal provisions to make torture as defined in article 1 of the Convention a punishable offence in accordance with article 4, paragraph 2, of the Convention;

(c) The State party continue to monitor the effects of solitary confinement on detainees and the effects of the new bill, which has reduced the number of grounds that can give rise to solitary confinement and its length;

(d) The law governing solitary confinement for convicted prisoners establish adequate

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review mechanisms relating to its determination and duration;

(e) The State party ensure that the proposed amendment to the Aliens Act does not frustrate effective recourse by aliens to the Committee as provided in article 22 of the Convention;

...

- Russian Federation, CAT, A/57/44 (2002) 42 at paras. 91, 94 and 95.

91. The Committee is deeply concerned over the following:

...

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

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

...

94. The Committee recommends that the State party:

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

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

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

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...

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

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

...

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

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

...

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

...

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

(a) Clarify the jurisdiction over the events in Chechnya, which currently have an uncertain status, as there is no state of exception and there is also a non-international armed conflict in progress. Such clarification could provide individuals with an effective means of seeking redress for any violations committed, so they will not be caught in a vicious circle of various military and civilian departments and agencies with differing degrees of responsibility;

(b) While a number of mechanisms have been put in place in Chechnya in connection with allegations of human rights violations, none has possessed the attributes associated with an independent impartial investigating body. Accordingly, the Committee reiterates its 1996 conclusion calling upon the Government of the State party to establish a credible impartial and "independent committee to investigate allegations of breaches of the Convention by the military forces of the Russian Federation and Chechen separatists, with a view to bringing to justice those against whom there is evidence that establishes their involvement or complicity in such acts" (A/52/44,para. 43(h));

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...

(d) Strengthen the powers of the Special Representative of the President for human and civil rights and freedoms in Chechnya to conduct investigations and make recommendations to the prosecutor as to possible criminal cases;

...

(f) Consider the formation of a joint investigative group of both military and civilian procuracy officials until specific responsibility can be identified and jurisdiction can be established.

- Saudi Arabia, CAT, A/57/44 (2002) at paras. 100 and 101.

100. The Committee is concerned about the following:

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

...

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

...

(e) Reports of *incommunicado* detention of detained persons, at times for extended periods, particularly during pre-trial investigations. The lack of access to external legal advice and medical assistance, as well as to family members, increases the likelihood that conduct violating the Convention will not be appropriately pursued and punished;

...

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

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

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

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

...

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

...

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

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

...

- Sweden, CAT, A/57/44 (2002) 51 at paras. 105, 106 and 108.

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

...

(b) The setting up, in December 2000, of a special commission to study the manner in which the criminal investigation into the 1995 death in detention of Osmo Vallo was carried out. The Committee notes in particular that the "Osmo Vallo Commission" published its conclusions and recommendations in April 2002, and that they have been submitted to the Ministry of Justice;

...

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

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

(f) The many studies and projects under way aimed at enhancing the domestic legal system for the protection of human rights, in particular the jurisdiction of Swedish courts

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regarding international offences committed abroad, and the improvement of the procedure relating to requests for asylum;

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

...

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

...

108. The Committee recommends that the State party should:

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

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

...

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

...

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

- Uzbekistan, CAT, A/57/44 (2002) 54 at paras. 113, 115 and 116.

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113. The Committee notes the following positive developments:

...

(e) The report by the representative of the State party of the establishment of an appeals system for court sentences and the introduction of alternatives to prison sentences, releasing detainees on bail;

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

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

...

115. The Committee expresses concern about the following:

...

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

...

116. The Committee recommends that the State party:

...

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

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

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

...

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

...

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

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...

- Cyprus, CAT, A/58/44 (2002) 21 at para. 33.

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

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

...

(f) The amendment of the Aliens and Immigration Law to provide additional protection to persons claiming refugee status;

...

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

...

- Egypt, CAT, A/58/44 (2002) 22 at paras. 39, 41 and 42.

39. The Committee welcomes the following:

...

(b) Circular letter No. 11 of 1999 regulating the procedures for the unannounced inspections which the Department of Public Prosecutions has an obligation to conduct in places of detention, particularly if it receives written or verbal reports or notifications indicating that a person is being held illegally at a police station or other place of detention;

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

...

(f) The establishment in 2000 of the Directorate-General for Human Rights Affairs at the Ministry of Justice, whose functions are to assume responsibility for the fulfilment of the legal aspects of international obligations arising from human rights instruments, including the preparation of replies to international bodies, promote greater public awareness and provide training on these matters for members of the judiciary and the Department of Public Prosecutions;

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(g) The State party's efforts to set up a national human rights commission.

...

41. The Committee is concerned about the following:

...

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

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

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

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

...

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

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

...

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

42. The Committee recommends that the State party:

...

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

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

...

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

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

...

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

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

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

...

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

...

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

...

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

48. The Committee notes the following positive developments:

(a) The nomination of a Legal Chancellor who also acts in the capacity of an ombudsman;

...

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

...

49. The Committee is concerned that:

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

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

...

50. The Committee recommends that the State party:

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

...

- Spain, CAT, A/58/44 (2002) 29 at paras. 56-58, 63, and 67 and 68.

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

57. The Committee reiterates, as stated in its previous conclusions and recommendations (A/53/44, paras. 119-136), that the Penal Code in force since 1996 conforms, generally speaking, to article 1 of the Convention. It welcomes with satisfaction the fact that article 57, as amended by Organization Act No. 14/1999 of 9 June, allows judges and courts in torture cases to add ancillary injunctions for the subsequent protection of the victim to the main sentence.

58. The Committee also notes with satisfaction:

...

(d) The new Instruction from the Secretary of State for Immigration on the treatment of foreign stowaways, replacing the Instruction of 17 November 1998 on the same subject. This establishes a series of safeguards concerning the right to official legal representation in administrative or judicial proceedings which may lead to the acceptance of possible asylum applications, refusal of entry or expulsion from Spanish territory;

...

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

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

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

...

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

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

- Venezuela, CAT, A/58/44 (2002) 32 at paras. 76, 77, 80 and 81.

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

(a) It gives constitutional status to human rights treaties, covenants and conventions, declares that they take precedence in domestic law, prescribes that they should be immediately and directly applicable and provides that the absence of any law regulating these rights does not impair their exercise;

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

(c) It requires the State to investigate and impose penalties for human rights offences, declares that action to punish them is not subject to a statute of limitations and excludes any measure implying impunity, such as an amnesty or a general pardon;

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

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

...

(h) It makes compulsory the extradition of persons charged with human rights offences and makes provision for a brief, public, oral procedure for trying them.

77. The Committee considers of particular importance the establishment under the Constitution of the Office of the Ombudsman as an independent body responsible for the promotion, protection and monitoring of the rights and safeguards established in the Constitution and in the international human rights instruments ratified by Venezuela.

...

80. The Committee expresses its concern at the following:

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

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

...

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

...

81. The Committee recommends that the State party should:

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

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

(c) Adopt measures to regulate and institutionalize the right of victims of torture to fair and adequate compensation and draw up programmes for their physical and

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psychological rehabilitation to the fullest extent possible, as the Committee has already recommended in its previous conclusions and recommendations;

...

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

87. The Committee notes the following positive developments:

...

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

...

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

...

(g) The creation of the post of Ombudsman;

...

88. The Committee is concerned about:

...

(e) The apparent lack of independence of the judiciary despite the new legislation;

...

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

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

...

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

(o) Reports that, in many instances, judges refuse to deal with visible evidence of torture and ill-treatment of detainees and do not order independent medical examinations or return cases for further investigation.

89. The Committee recommends that the State party:

...

(e) Fully ensure the independence of the judiciary, in accordance with the Basic Principles on the Independence of the Judiciary;

(f) Ensure the prompt creation of the new bar association and take measures to guarantee an adequate number of qualified and independent lawyers able to act in

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criminal cases;

(g) Ensure the full independence of the Ombudsman;

...

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

...

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

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

...

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

98. The Committee is concerned about the following:

...

(f) The absence of an independent body competent to deal with complaints against the police;

(g) The ineffective functioning of the criminal justice system, in particular the lack of independence of the judiciary as well as its inefficiency;

...

99. The Committee recommends that the State party:

...

(b) Take effective measures to establish and ensure a fully independent and professional judiciary in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary, if necessary by calling for international cooperation;

...

(d) Establish an independent body competent to deal with complaints against the police and other law enforcement personnel;

...

(g) Take all the necessary measures to guarantee access to justice for all the people of Cambodia, particularly the poor and the inhabitants of rural and remote areas of the country;

...

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

...

- Iceland, CAT, A/58/44 (2003) 43 at para. 104.

104. The Committee welcomes the following developments: (a) the new Act on Protection of Children, No. 80/2000, which offers greater protection to children; (b) the new Act on Foreigners, No. 96/2002, which gives foreigners greater protection; (c) the amendments to the Police Act, which provides for allegations that an offence has been committed by a member of the police force to be submitted directly to the General Prosecutor for investigation.

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

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

....

(b) The decision of the Supreme Court adopted in December 2000, which limits the duration of remand in custody to two years;

...

(f) The "Hercules" special programme conducted by the Supreme Court of Slovenia and introduced in 2001, aimed at reducing and eliminating court backlogs;

...

115. The Committee expresses concern about the following:

...

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

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

...

116. The Committee recommends that the State party:

...

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

(c) Take measures to establish an effective, reliable and independent complaints

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mechanism to undertake prompt and impartial investigations into allegations of ill-treatment or torture by police and other public officials and to punish the offenders;

...

- Turkey, CAT, A/58/44 (2003) 46 at paras. 120, 121 and 123.

120. The Committee welcomes the following positive aspects:

...

(c) The constitutional and legal reforms intended to strengthen the rule of law and to bring the legislation into line with the Convention, including the reduction of periods of detention in police custody; the elimination of the requirement to obtain administrative permission to prosecute a civil servant or public official; and the decrease in the number of crimes under the jurisdiction of State Security Courts;

...

121. The Committee expresses concern about:

...

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

...

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

...

123. The Committee recommends that the State party:

...

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

(c) Repeal the statute of limitation for crimes involving torture, expedite the trials and appeals of public officials indicted for torture or ill-treatment, and ensure that members of the security forces under investigation or on trial for torture or ill-treatment are suspended from duty during the investigation and dismissed if they are convicted;

...

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

...

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

128. The Committee notes with satisfaction the following elements:

(a) The ratification of the Convention without reservations and the recognition of the Committee's competence to consider inter-State and individual complaints (arts. 21 and 22);

...

(c) The adoption on 18 July 2001 of an article in the Code of Penal Procedure recognizing the competence of Belgian courts to try offences committed outside Belgium which are covered by an international convention which is binding on Belgium;

...

129. The Committee is concerned about:

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

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

...

(d) The fact that foreigners who have been resident in Belgium for a long time but who have disturbed public order or endangered national security may be expelled from the territory, even though most of their ties and attachments are in Belgium;

(e) The non-suspensive nature of appeals filed with the Council of State by persons in respect of whom an expulsion order has been issued. The Committee is also concerned about the administration's delay in implementing ministerial orders issued in 2002 and giving suspensive effect to emergency remedies applied for by rejected asylum-seekers;

...

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

...

(i) The lack of an exhaustive list of disciplinary offences in prisons and of any effective remedy for detainees against disciplinary decisions taken against them;

...

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

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

131. The Committee recommends that the State party:

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

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

...

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

...

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

...

(h) Urgently modernize its prison law, particularly by defining the legal status of detainees, explaining the prison disciplinary regime and guaranteeing the right of detainees to institute proceedings and obtain effective remedies against unwarranted disciplinary penalties through an independent and promptly accessible body;

...

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

- Republic of Moldova, CAT, A/58/44 (2003) 53 at paras. 138 and 139.

138. The Committee expresses concern about:

...

(e) The reported failure of the State party to ensure prompt, impartial and full investigations into the numerous allegations of torture and ill-treatment, thereby

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contributing to a culture of impunity among law enforcement officials;

(f) The absence of an independent oversight mechanism competent to deal with complaints against the police;

...

(h) Allegations of a dysfunctional criminal justice system, apparently caused in part by a lack of independence of the procuracy and the judiciary;

...

139. The Committee recommends that the State party:

...

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

...

(e) Establish an independent administrative body competent to deal with complaints against the police and law enforcement personnel;

(f) Take effective measures to ensure a fully independent procuracy and an independent judiciary in conformity with the United Nations Basic Principles on the Independence of the Judiciary, if necessary by calling for international cooperation;

...

- Bulgaria, CAT, A/59/44 (2004) 19 at paras. 31-33.

31. The Committee notes the following positive developments:

(a) Ongoing efforts by the State party to reform its legislation related to the implementation of the Convention and aimed at strengthening the protection of human rights. In particular, the Committee welcomes the following:

(i) The entry into force of the Law on the Ombudsman on 1 January 2004;

...

(iii) The entry into force of the new Law on Asylum and Refugees on 1 December 2002, notably the establishment of the State Agency for Refugees as the single central refugee authority deciding on asylum, as well as the introduction of the possibility of judicial review for decisions taken in the accelerated procedure;

...

...

(c) The setting up of a specialized Human Rights Commission within the National Police Service in August 2000, with a network of regional coordinators;

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...

32. The Committee expresses concern about the following:

...

(c) The lack of an independent system to investigate complaints, and that allegations of ill-treatment are not always investigated promptly and impartially, resulting in an apparent situation of impunity for those responsible;

...

(g) The insufficient data relating to compensation and rehabilitation available to victims of torture or their dependants in accordance with article 14 of the Convention;

...

33. The Committee recommends that the State party:

...

(c) Take measures to establish an effective, reliable and independent complaint system to initiate and undertake prompt and impartial investigations into all allegations of ill-treatment or torture and to punish those found responsible...

...

(h) Ensure that all persons who have been victims of a violation of their rights under the Convention have access, in law as well as in practice, to the means of obtaining redress, including an enforceable right to fair and adequate compensation;

...

- Cameroon, CAT, A/59/44 (2003) 23 at paras. 44 and 47.

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

...

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

...

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

...

47. The Committee further recommends that the Cameroonian authorities should:

...

(b) Restrict the jurisdiction of the military courts to military offences only;

...

(d) Revise its legislation to end the exemption from punishment of rapists who marry their victims;

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...

- Chile, CAT, A/59/44 (2004) 28 at paras. 54-57.

54. The Committee notes the following positive developments:

...

(f) Assurances by the representatives of the State party that the Convention is directly applicable by the courts;

(g) The establishment of the National Commission on Political Imprisonment and Torture to identify persons who were deprived of freedom and tortured for political reasons during the military dictatorship, and the assurances by the representative of the State party that its tenure would be extended to permit it to complete its work;

...

(j) The declarations under articles 21 and 22 of the Convention, enabling other States parties (art. 21) and individuals (art. 22) to submit complaints concerning the State party to the Committee;

...

55. The constitutional arrangements made as part of the political agreement that facilitated the transition from military dictatorship to democracy jeopardize the full exercise of certain fundamental human rights, according to the State party's report. While being aware of the political dimensions of these arrangements and their shortcomings, and noting that several Governments have previously submitted constitutional amendments to the Congress, the Committee stresses that internal political constraints cannot serve as a justification for non-compliance by the State party with its obligations under the Convention.

56. The Committee expresses concern about the following:

...

(b) The fact that certain constitutional provisions jeopardizing the full exercise of fundamental human rights remain in force, including, in particular, the Amnesty Law, which prohibits prosecution of human rights violations committed from 11 September 1973 to 10 March 1978 and which entrenches the impunity of those responsible for torture, disappearances and other serious human rights violations during the military dictatorship and the lack of reparation for the victims of torture;

...

(g) The limited mandate of the National Commission on Political Imprisonment and Torture aimed at identifying victims of torture during the military regime and the conditions for obtaining reparation. In particular, the Committee notes with concern:

(i) The short time period in which alleged victims can register with the National

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Commission, resulting in fewer persons registering than anticipated;

(ii) The lack of clarity as to which acts the Commission defines as torture;

(iii) The reported rejection of claims not filed in person, notwithstanding, e.g., the disability of the person(s) involved;

(iv) The failure to permit persons to register who may have received reparation for other human rights violations (disappearance, exile, etc.);

(v) That “austere and symbolic” reparation is not the same as “adequate and fair” reparation as set forth in article 14 of the Convention;

(vi) That the Commission does not have the competence to investigate allegations of torture in order to identify those persons responsible, so that they may be prosecuted;

...

57. The Committee recommends that the State party should:

...

(b) Reform the Constitution to ensure the full protection of human rights, including the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment in conformity with the Convention, and to this end abolish the Amnesty Law;

...

(e) Adopt all the necessary measures to ensure impartial, full and prompt investigations into all allegations of torture and other cruel, inhuman or degrading treatment, the prosecution and punishment of the perpetrators, and the provision of fair and adequate compensation for the victims, in conformity with the Convention;

(f) Consider eliminating or extending the current 10-year statute of limitations for the crime of torture, taking into account its seriousness;

...

(k) Extend the term and mandate of the National Commission on Political Imprisonment and Torture to enable victims of all forms of torture, including victims of sexual violence, to file complaints. To this end:

(i) Initiate measures to better publicize the work of the Commission, utilizing all media, and clarifying the definition of torture by including a non-exhaustive list specifying various forms of torture, including sexual violence, on the forms victims must complete;

(ii) Ensure that victims will be afforded privacy when registering with the Commission, and that persons in rural areas or otherwise unable to file in person

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can register;

(iii) Include in the final report of the Commission data disaggregated by gender, age, type of torture, etc.;

(iv) Consider extending the Commission's mandate to permit investigations and, where warranted, the initiation of criminal proceedings against those allegedly responsible for the actions reported;

(l) Create a system to provide adequate and fair reparation to victims of torture, including rehabilitative measures and compensation;

...

- Colombia, CAT, A/59/44 (2003) 33 at paras. 68 and 69.

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

...

(b) The allegations of tolerance, support or acquiescence by the State party's agents concerning the activities of the paramilitary groups known as "self-defence groups", which are responsible for a great deal of torture or ill-treatment;

(c) The judicial reform bill, should it be approved, would reportedly provide for constitutional limitation of *amparo* proceedings and reduce the powers of the Constitutional Court, particularly with respect to the review of declarations of states of emergency. Similarly, the Committee expresses its concern at the "alternative penalties" bill, which, if approved, would, even if they had committed torture or other serious breaches of international humanitarian law, grant conditional suspension of their sentences to members of armed groups who voluntarily laid down their arms;

(d) The allegations and information indicating:

(i) That some prosecutors in the Human Rights Unit of the Public Prosecutor's Office have been forced to resign and that members of the Unit have been threatened in connection with their investigation of cases of human rights violations;

(ii) Inadequate protection against rape and other forms of sexual violence, which are allegedly frequently used as forms of torture or ill-treatment. The Committee further expresses its concern at the fact that the new Military Penal Code does not expressly exclude sexual offences from the jurisdiction of the military courts;

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(iii) The fact that the military courts are allegedly still, despite the promulgation of the new Military Penal Code and the Constitutional Court's decision of 1997 that crimes against humanity did not fall within the jurisdiction of the military courts, investigating offences that are totally excluded from their competence, such as torture, genocide and forced disappearance in which members of the police or armed forces are suspected of having been involved;

(iv) The widespread, serious attacks on human rights defenders, who are playing an essential role in reporting torture and ill-treatment; in addition, the repeated attacks on members of the judiciary, threatening their independence and physical integrity;

...

69. The Committee recommends that the State party take all necessary measures to prevent the acts of torture and ill-treatment that are being committed in its territory, and in particular that it:

...

(b) Reconsider...in the light of its obligation to prevent torture and ill-treatment under the Convention:

(i) The use of "peasant soldiers";

(ii) The adoption of measures that appear to give military forces powers of criminal investigation under which suspects can be detained for long periods without judicial control;

(iii) The judicial reform bill, so as to provide full protection for *amparo* proceedings and respect and promote the role of the Constitutional Court in defending the rule of law;

(c) Ensure that anyone, especially any public servant, who backs, plans, foments, finances or in any way participates in operations by paramilitary groups, known as "self-defence groups", responsible for torture is identified, arrested, suspended from duty and brought to justice;

(d) Ensure that the staff of the Human Rights Unit of the Public Prosecutor's Office are able to carry out their duties independently, impartially and in safety and provide the Unit with the resources needed to do its work effectively;

(e) Investigate, prosecute and punish those responsible for rape and other forms of sexual violence, including rape and sexual violence that occur in the framework of operations against illegal armed groups;

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(f) That in cases of violation of the right to life any signs of torture, especially sexual violence, that the victim may show be documented. That evidence should be included in forensic reports so that the investigation may cover not only the homicide but also the torture. The Committee also recommends that the State party provide medical staff with the training necessary to determine when torture or ill-treatment of any kind has occurred;

(g) Respect the provisions of the Military Penal Code that exclude cases of torture from the jurisdiction of the military courts and ensure that those provisions are respected in practice;

(h) Take effective measures to protect human rights defenders against harassment, threats and other attacks and report on any judicial decisions and any other measures taken in that regard. The Committee also recommends the adoption of effective measures for the protection of the physical integrity and independence of members of the judiciary;

...

- Croatia, CAT, A/59/44 (2004) 38 at paras. 74, 77 and 78.

74. The Committee takes note with satisfaction of the assurances given by the State party's representative that the 1996 Amnesty Act has not been applied to acts of torture.

...

77. The Committee is concerned about the following:

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

(i) The reported failure of the State party to carry out prompt, impartial and full investigations, to prosecute the perpetrators and to provide fair and adequate compensation to the victims;

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

(iii) The reported harassment, intimidation and threats faced by witnesses and victims testifying in proceedings and the lack of adequate protection from the State party;

...

(f) The alleged failure of the State party to prevent and fully and promptly investigate violent attacks by non-State actors against members of ethnic and other minorities;

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...

78. The Committee recommends that the State party:

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

(b) Ensure full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), *inter alia* by ensuring that all indicted persons in their territory are arrested and transferred to the custody of the Tribunal;

(c) Enforce all relevant legislation providing for the protection of witnesses and other participants in proceedings and ensure that sufficient funding is allocated for effective and comprehensive witness protection programmes;

...

(l) Ensure the protection of members of ethnic and other minorities, *inter alia* by undertaking all effective measures to prosecute and punish all violent acts against these individuals, establishing programmes to raise awareness, prevent and combat this form of violence, and including this issue in the training of law enforcement officials and other relevant professional groups;

...

- Czech Republic, CAT, A/59/44 (2004) 42 at paras. 86 and 87.

86. The Committee expresses concern about the following:

(a) The persistent occurrence of acts of violence against the Roma and the alleged reluctance on the part of the police to provide adequate protection and to investigate such crimes, despite efforts made by the State party to counter such acts;

...

(h) The findings of the investigations into the excessive use of force by the police following the demonstrations in Prague during the September 2000 International Monetary Fund/World Bank Meeting, according to which only one case qualified as a criminal offence;

...

87. The Committee recommends that the State party:

(a) Exert additional efforts to combat racial intolerance and xenophobia and ensure that the comprehensive anti-discrimination legislation being discussed include all relevant grounds covered by the Convention;

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(b) Take measures to establish an effective, reliable and independent complaint system to undertake prompt and impartial investigations into all allegations of ill-treatment or torture by the police or other public officials, including allegations of racially motivated violence by non-State actors, in particular any that have resulted in deaths, and to punish the offenders;

...

(k) Review the independence and effectiveness of the investigations into complaints of excessive use of force in connection with the International Monetary Fund/World Bank Meeting demonstrations of September 2000, with a view to bringing those responsible to justice and providing compensation to the victims;

...

- Germany, CAT, A/59/44 (2004) 45 at paras. 90-92.

90. The Committee welcomes:

...

(c) The State party's reaffirmation of its commitment to the absolute character of the ban on exposure to torture, including through *refoulement*. In this respect, the Committee takes note of the recent institution of criminal proceedings against a senior Frankfurt police officer on charges of threatened use of torture. In addition, it welcomes the State party's confirmation that the ban on *refoulement* contained in article 3 of the Convention is applicable to all cases, including where the asylum-seeker has been denied refugee status on security grounds;

...

91. The Committee expresses its concern at:

(a) The length of time taken to resolve criminal proceedings arising from allegations of ill-treatment of persons in the custody of law enforcement authorities, including in particular serious cases where death has resulted, such as that of Amir Ageeb, who died in May 1999;

(b) Some allegations that criminal charges have been brought, for punitive or dissuasive purposes, by law enforcement authorities against persons who have brought charges of ill-treatment against law enforcement authorities;

...

92. The Committee recommends that:

(a) The State party take all appropriate measures to ensure that criminal complaints lodged against its law enforcement authorities are resolved expeditiously, in order to resolve such allegations promptly and avoid any possible inference of impunity, including in cases where counter-charges are alleged;

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...

- Latvia, CAT, A/59/44 (2003) 48 at paras. 98, 100 and 101.

98. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Latvia. In particular, the Committee welcomes the following:

(a) Legislative measures:

(i) The establishment of the Constitutional Court in 1996 and the inclusion in the Constitution of chapter VIII devoted to fundamental human rights;

(ii) The establishment of the National Human Rights Office in 1995, which has the mandate, *inter alia*, to review complaints of human rights violations, as well as to submit to the Constitutional Court cases of legal provisions it believes are at variance with the Constitution of Latvia;

(iii) The entry into force of the new Asylum Law in September 2002, aimed at bringing the national asylum system further into alignment with the European Union *acquis* on asylum and related international standards. The new Asylum Law also introduced two forms of complementary protection ("alternative status") for asylum-seekers;

(iv) The entry into force of the new Immigration Law in May 2003 which, *inter alia*, provides a maximum length of detention for foreigners arrested in violation of the Law and the right of an arrested foreigner to submit a complaint to a prosecutor, to contact the consulate and to have access to legal aid;

...

100. The Committee expresses concern about the following:

...

(b) The lack of independence and impartiality of the Internal Security Office of the State Police, which is competent to deal with complaints on alleged violence by police officers;

...

101. The Committee recommends that the State party:

(a) Take all appropriate measures to prevent acts of ill-treatment by members of the police and ensure that all allegations of ill-treatment are investigated promptly and impartially;

...

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- Lithuania, CAT, A/59/44 (2003) 52 at paras. 108-110.

108. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation in order to safeguard fundamental human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, including:

...

(d) The Law on the Establishment of Administrative Tribunals (1999) providing for the examination of complaints concerning acts, actions or omissions of public officials;

...

(g) The ratification of the Rome Statute of the International Criminal Court in 2003;

...

109. The Committee expresses concern about the following:

...

(e) The large increase in complaints about the treatment of prisoners by the police (largely due to the State's own positive efforts to make the complaint process more confidential) and that, according to the State party, almost half of such complaints have been upheld. The Committee is further concerned that investigations into allegations against police officers are not conducted by a body independent of the police;

(f) Reports that some State-appointed lawyers have shown little interest in how their clients who are detained are treated;

(g) The lack of information on compensation and rehabilitation provided to victims of torture and/or ill-treatment;

...

(i) The lack of information provided regarding allegations of brutality against conscripts in the army.

110. The Committee recommends that the State party:

...

(e) Take urgent and effective steps to establish a fully independent complaints mechanism, ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecutions, and punish, as appropriate, the alleged perpetrators;

(f) Ensure that officials in the army promptly investigate reports of brutality against conscripts that may amount to ill-treatment or torture, and investigate other reports of abuse fairly and impartially, and hold those responsible to account;

...

(h) Continue efforts to provide an effective legal aid system by, *inter alia*, public financing of defence counsel offices, providing adequate remuneration, and involving the

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Bar Association in coordinating appointments;

...

- Monaco, CAT, A/59/44 (2004) 56 at paras. 117 and 118.

117. The Committee expresses concern about:

...

(c) The weakness of the safeguards associated with the expulsion and return (*refoulement*) of foreigners, inasmuch as there appears to be no clause on *non-refoulement* in Monaco's domestic law that meets the requirements of article 3 of the Convention and appeal to the Supreme Court does not automatically have suspensive effect;

...

118. The Committee recommends that the State party:

...

(c) Respect the principle laid down in article 3 of the Convention, including in cases involving the expulsion and return (*refoulement*) of foreigners, and establish that appeals against deportation orders which mention the risk of torture in the country of destination automatically have suspensive effect. The Committee, noting that individuals are expelled or returned only to France, reminds the State party that it must satisfy itself that no one will be returned to a third country where there might be a risk of torture;

...

- Morocco, CAT, A/59/44 (2003) 58 at paras. 125-127.

125. The Committee takes note of the following positive new developments:

...

(b) The broadening of the mandate of the Consultative Council on Human Rights (CCDH); the appointment of a "mediator", the Diwan al-Madhalim, responsible for considering cases of human rights violations submitted to him and for forwarding to the competent authorities the requisite proposals and recommendations; the establishment of the Mohamed VI Foundation for the reintegration of prisoners, which is presided over by the King himself; the establishment of the Human Rights Documentation, Information and Training Centre; the prison reform, including the adoption of measures to assist persons subjected to any form of detention or imprisonment, notably juveniles in the child protection centres, and the implementation of measures to ensure medical care and training for detainees and prisoners;

...

126. The Committee expresses concern about:

...

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(e) The lack of information about measures taken by the judicial, administrative and other authorities to act on complaints and undertake inquiries, indictments, proceedings and trials in respect of perpetrators of acts of torture, notably in the case of acts of torture verified by the Independent Arbitration Commission for compensation for material damage and moral injury suffered by the victims of disappearance or arbitrary detention and their next of kin;

(f) The application to acts of torture of the prescription period provided for by ordinary law, which would appear to deprive victims of their imprescriptible right to initiate proceedings;

...

127. The Committee recommends that the State party:

...

(d) Include in the Code of Criminal Procedure provisions organizing the imprescriptible right of any victim of an act of torture to initiate proceedings against any torturer;

...

(f) Ensure that all allegations of torture or cruel, inhuman or degrading treatment are immediately investigated impartially and thoroughly, especially allegations relating to cases and situations verified by the aforementioned Independent Arbitration Commission and allegations implicating the National Surveillance Directorate in acts of torture, and ensure that appropriate penalties are imposed on those responsible and that equitable compensation is granted to the victims;

(g) Inform the Committee of the outcome of impartial inquiries into all deaths in police custody, detention or prison, in particular deaths alleged to be the result of torture;

...

- New Zealand, CAT, A/59/44 (2004) 61 at paras. 133-135.

133. The Committee notes with appreciation:

...

(f) Measures taken to improve the effectiveness and strengthen the independence of the Police Complaints Authority;

...

134. The Committee expresses concern about:

...

(c) The process of issuing a security-risk certificate under the Immigration Act, which could lead to a breach of article 3 of the Convention as the authorities may remove or deport a person deemed to constitute a threat to national security, without having to give detailed reasons or to disclose classified information to the person concerned; possibilities of effective appeal are limited; and the fact that the Minister of Immigration

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has to decide within three working days whether to remove or deport the person concerned;

...

135. The Committee recommends that the State party:

...

(c) Immediately take steps to review the legislation relating to the security-risk certificate in order to ensure that appeals can effectively be made against decisions to detain, remove or deport a person, extend the time given to the Minister of Immigration to adopt a decision and ensure full respect of article 3 of the Convention;

...

(g) Carry out an inquiry into the events that led to the decision of the High Court in the *Taunoa et al.* case;

...

- Yemen, CAT, A/59/44 (2003) 64 at para. 143.

143. The Committee welcomes the ongoing efforts of the State party to reform its legal system, revise its legislation and uphold democratic values, in particular:

(a) The establishment of the Human Rights Ministry in 2003 aimed at promoting and ensuring respect for human rights, including consideration of individual complaints;

...

(d) The stated intention of the State party to ratify the Rome Statute of the International Criminal Court and steps taken at the national level in this respect;

(e) The ratification of the major human rights instruments and the incorporation of the provisions of these international treaties into the domestic legal order;

...

- Argentina, CAT, A/60/44 (2004) 12 at paras. 34 and 35.

34. The Committee expresses its concern at the following:

...

(b) The lack of proportion between the high number of reports of torture and ill-treatment and the very small number of convictions for such offences, as well as the unjustifiable delays in the investigation of cases of torture, all of which contribute to the prevailing impunity in this area;

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(c) The repeated practice of miscategorization of actions by judicial officials, who treat the crime of torture as a minor offence (such as unlawful coercion), which carries a lesser punishment, when in fact such actions should be categorized as torture;

(d) The uneven application of the Convention in the various provinces of the State party, and the lack of machinery for accommodating the requirements of the Convention to the federal structure of the country, despite the fact that the State party's Constitution grants those provisions the same status as the Constitution itself;

...

(k) Alleged reprisals, intimidation and threats received by persons reporting acts of torture and ill-treatment;

...

35. The Committee recommends that the State party take all necessary steps to prevent acts of torture and ill-treatment in the territory of the State of Argentina, and in particular that it:

(a) Take vigorous steps to eliminate the impunity of the alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try and, where appropriate, convict the perpetrators of torture and ill-treatment, impose appropriate sentences on them and properly compensate the victims;

(b) Provide training for judicial officials in order to enhance the efficiency of investigations and bring judicial decisions into line with the relevant international standards;

...

(d) Guarantee that the obligations arising from the Convention will always be fulfilled in all provincial courts, with the aim of ensuring the uniform application of the Convention throughout the State party. The State party is reminded that the State's international responsibility is borne by the State at the national level even when violations have occurred at the provincial level;

...

(k) Take effective steps to ensure that all persons reporting acts of torture or ill-treatment are protected from intimidation and from any unfavourable consequence of their action in making such a report;

...

(p) Establish and promote effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and psychological and medical assistance to victims;

...

- United Kingdom of Great Britain and Northern Ireland (Crown Dependencies and

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Overseas Territories), CAT, A/60/44 (2004) 16 at paras. 39 and 40.

39. The Committee expresses its concern at:

...

(b) The State party's limited acceptance of the applicability of the Convention to the actions of its forces abroad, in particular its explanation that "those parts of the Convention which are applicable only in respect of territory under the jurisdiction of a State party cannot be applicable in relation to actions of the United Kingdom in Afghanistan and Iraq"; the Committee observes that the Convention protections extend to all territories under the jurisdiction of a State party and considers that this principle includes all areas under the *de facto* effective control of the State party's authorities;

...

40. The Committee recommends that:

...

(f) The State party should make public the result of all investigations into alleged conduct by its forces in Iraq and Afghanistan, particularly those that reveal possible actions in breach of the Convention, and provide for independent review of the conclusions where appropriate;

...

(j) The State party should ensure that the conduct of its officials, including those attending interrogations at any overseas facility, is strictly in conformity with the requirements of the Convention and that any breaches of the Convention that it becomes aware of should be investigated promptly and impartially, and if necessary the State party should file criminal proceedings in an appropriate jurisdiction;

...

- Greece, CAT, A/60/44 (2004) 20 at paras. 46-48.

46. The Committee notes the following positive developments:

(a) The ongoing efforts by the State party to revise its legislation and adopt other necessary measures, so as to strengthen the respect for human rights in Greece and give effect to the Convention. In particular the Committee welcomes the following:

...

(iii) The new Law on Legal Aid (Law 3226/2004), which stipulates that lawyers must be appointed to draw up and submit complaints on behalf of torture victims and victims of trafficking, and that the prison prosecutor has the duty to offer legal counselling to detainees;

...

(v) The Law on Combating Trafficking in Human Beings (Law 3064/2002), criminalizing trafficking and punishing the perpetrators of such crimes with heavy

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sentences;

...

(b) The establishment of a Department for Children's Rights in the Office of the Ombudsman (Law 3094/2003) with a mandate to, *inter alia*, undertake investigations and research on specific issues considered particularly important;

...

47. The Committee notes that many of the concerns it expressed during the consideration of the third periodic report (A/56/44, para. 87) have not been adequately addressed, and will be reiterated in the present concluding observations. Consequently, the Committee expresses its concern at:

...

(e) The lack of an effective independent system to investigate complaints and reports that allegations of torture and ill-treatment are not investigated promptly and impartially;

(f) The alleged reluctance of prosecutors to institute criminal proceedings under article 137A of the Criminal Code. Furthermore, the Committee is concerned at the deficiencies in according protection from ill-treatment or intimidation to victims to which they may be exposed as a consequence of filing a complaint or giving evidence;

...

48. The Committee recommends that the State party:

...

(f) Take necessary measures to establish an effective, reliable and independent complaints system to undertake prompt and impartial investigations, including immediate forensic medical investigation, into allegations of ill-treatment or torture by police and other public officials, and to punish the offenders. The Committee stresses that while the State party recognizes the independence of the judiciary, it has a responsibility to ensure its effective functioning;

(g) Ensure that all persons reporting acts of torture or ill-treatment are accorded adequate protection, and that the allegations are promptly investigated. Disciplinary measures, including suspension, should not be delayed pending outcome of criminal proceedings;

...

- Switzerland, CAT, A/60/44 (2005) 28 at paras. 64 and 65.

64. The Committee expresses concern regarding the following:

...

(f) In spite of the increase in number of complaints filed against the police, often by persons of foreign origin, for ill-treatment, only a minority of these complaints result in prosecutions or indictments, and even fewer cases result in compensation for the victims

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or their families;

(g) All but one canton have failed to establish machinery to receive complaints against members of the police regarding allegations of torture or ill-treatment during arrest, questioning and police custody, in spite of a previous recommendation of the Committee in this regard;

(h) Changes have been introduced by the revised law on asylum which restrict or aggravate asylum-seekers' access to legal counsel and the length and conditions of detention in "preparatory" or pre-deportation detention...

...

65. The Committee recommends that the State party:

...

(f) Ensure that all complaints for acts of ill-treatment are properly and effectively investigated and that the alleged perpetrators are prosecuted and if found guilty sanctioned accordingly. Victims and their families should be informed of their right to pursue compensation and procedures should be made more transparent. In this regard, the State party should provide written information to the Committee on the steps taken to compensate the families of the two victims of the two recent cases of death caused during forcible deportation;

(g) Encourage all cantons to establish independent mechanisms entrusted to receive complaints against members of the police regarding cases of torture or ill-treatment;

(h) Ensure that asylum-seekers are granted full respect of their right to a fair hearing, to an effective remedy and to social and economic rights during all procedures established by the revised law on asylum;

...

- Finland, CAT, A/60/44 (2005) 32 at para. 71.

71. Amongst the many positive developments, the Committee notes in particular:

...

(h) The creation of a new Office of Minority Ombudsman in 2001 to replace the Ombudsman for Aliens, with wider powers under the Minority Ombudsman Act and Aliens Act, including the ability to act for asylum-seekers and deportees;

...

- Albania, CAT, A/60/44 (2005) 34 at paras. 81, 83 and 84.

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81. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Albania. In particular, the Committee welcomes the following:

(a) The adoption of a democratic Constitution in 1998 that enhances protection of human rights, including the prohibition of torture, establishes a maximum 48-hour limit on detention before which a person must be brought before a judge, and the direct applicability of ratified international treaties and their superiority over domestic laws;

...

83. The Committee expresses concern:

...

(b) That the qualification of acts of torture by law enforcement personnel merely as "arbitrary acts" results in those acts being treated as less serious criminal offences;

(c) That a climate of *de facto* impunity prevails for law enforcement personnel who commit acts of torture or ill-treatment, in view of:

(i) The numerous allegations of torture and ill-treatment by law enforcement personnel, especially at the moment of arrest and during interrogation;

(ii) The limited number of complaints regarding torture and ill-treatment, in particular to the Peoples' Advocate;

(iii) The lack of prompt and impartial investigation of allegations of torture and ill-treatment committed by law enforcement personnel; and

(iv) The absence of convictions in cases of torture under article 86 of the Criminal Code, and the limited number of convictions of torture with serious consequences under article 87 of the Criminal Code, all of which may indicate that there is a lack of awareness on the part of victims of their rights and that there is a lack of confidence in the police and judicial authorities;

(d) About the difficulties encountered by victims of torture and ill-treatment in filing a formal complaint with public authorities, obtaining medical evidence in support of their allegations and presenting that evidence;

(e) About allegations of lack of independence of the judiciary;

(f) That there is no universal jurisdiction of the Albanian courts in cases involving torture;

(g) That there is no clear legal provision prohibiting the use as evidence of any

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statement obtained under torture as well as no clear legal provision stating that an order from a superior may not be invoked as justification of torture;

(h) At the failure to ensure fair and adequate compensation, including rehabilitation, for all victims of torture, including ex-political convicted and persecuted persons;

...

(o) At the reported prevalence of violence against women and girls, including sexual and domestic violence, and the reluctance on the part of the authorities to, *inter alia*, adopt legislative and other measures to counter this phenomenon.

84. The Committee recommends that the State party:

...

(b) Ensure strict application of the provisions against torture and ill-treatment, criminalizing acts of torture and prosecuting and punishing perpetrators in a manner proportionate to the seriousness of the crimes committed;

(c) Investigate all allegations of ill-treatment and torture by law enforcement personnel, carrying out prompt and impartial investigations to bring the perpetrators to justice in order to eliminate the *de facto* impunity for law enforcement personnel who commit acts of torture and ill-treatment;

(d) Improve mechanisms to facilitate the submission of complaints by victims of ill-treatment and torture to public authorities, including obtaining medical evidence in support of their allegations;

(e) Take all appropriate measures to strengthen the independence of the judiciary and to provide adequate training on the prohibition of torture to judges and prosecutors;

(f) Amend domestic legislation to ensure that acts of torture are considered universal crimes;

(g) Adopt clear legal provisions prohibiting the use as evidence of any statement obtained under torture and establishing that orders from a superior may not be invoked as a justification of torture;

(h) Implement the established legal mechanisms enabling victims of torture to obtain redress and fair and adequate compensation;

...

(o) Adopt measures to combat sexual violence and violence against women, including domestic violence, and promptly and impartially investigate all allegations of torture or ill-treatment with a view to prosecuting those responsible;

...

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- Uganda, CAT, A/60/44 (2005) 39 at paras. 90, 92, 93, 95 and 97.
 - 90. The Committee notes with satisfaction the following positive developments:
 - (a) The establishment in 1996 of the Uganda Human Rights Commission under articles 51 to 59 of the Constitution and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), which is endowed with powers to address human rights violations, and the human rights desks in the army, police stations and prisons;
 - ...
 - 92. The Committee notes with concern that the State party has neither incorporated the Convention into its legislation nor introduced corresponding provisions to implement several articles, in particular:
 - ...
 - (c) The absence of universal jurisdiction for acts of torture in Ugandan law;
 - (d) The lack of compliance with other articles in the Convention, including articles 6 to 9.
 - 93. The Committee is further concerned about:
 - ...
 - (b) The reported limited accessibility and effectiveness of *habeas corpus*;
 - (c) The continued allegations of widespread torture and ill-treatment by the State's security forces and agencies, together with the apparent impunity enjoyed by its perpetrators;
 - ...
 - (e) The disproportion between the high number of reports of torture and ill-treatment and the very small number of convictions for such offences, as well as the unjustifiable delays in the investigation of cases of torture, both of which contribute to the impunity prevailing in this area;
 - (f) The pervasive problem of sexual violence, including in places of detention and in camps for internally displaced persons;
 - (g) Alleged reprisals, intimidation and threats against persons reporting acts of torture and ill-treatment;
 - ...
 - 95. While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about the frequent lack of implementation by the State party of the Commission's

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decisions concerning both awards of compensation to victims of torture and the prosecution of human rights offenders in the limited cases in which the Commission had recommended such prosecution.

...

97. The Committee recommends that the State party take all necessary legislative, administrative and judicial measures to prevent acts of torture and ill-treatment in its territory, and in particular that it:

...

(c) Ensure that acts of torture become subject to universal jurisdiction in Ugandan law in accordance with article 5 of the Convention;

(d) Ensure compliance with several articles of the Convention, including articles 6 to 9, for example by setting up a Law Commission;

...

(f) Enhance the accessibility and effectiveness of *habeas corpus*;

(g) Take vigorous steps to eliminate impunity for alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try and, where appropriate, convict the perpetrators of torture and ill-treatment, impose appropriate sentences on them and properly compensate the victims;

...

(k) Strengthen the Uganda Human Rights Commission and ensure that its decisions are fully implemented, in particular concerning awards of compensation to victims of torture and prosecution of perpetrators;

(l) Take effective steps to ensure that all persons reporting acts of torture or ill-treatment are protected from intimidation and from any unfavourable consequences of their action in making such a report;

(m) Establish and promote effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and psychological and medical assistance to victims;

...

- Bahrain, CAT, A/60/44 (2005) 44 at paras. 107-109.

107. The Committee notes the following positive developments:

(a) The extensive political, legal and social reforms on which the State party has embarked, including:

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(i) The adoption of the National Action Charter in 2001 which outlines reforms aimed at enhancing non-discrimination, due process of law and the prohibition of torture and arbitrary arrest and stating, *inter alia*, that any evidence obtained through torture is inadmissible;

(ii) The promulgation of the amended Constitution;

...

108. The Committee expresses its concern at:

...

(b) The lack of a comprehensive definition of torture in the domestic law as set out in article 1 of the Convention;

...

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

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

(h) The inadequate availability in practice of civil compensation and rehabilitation for victims of torture prior to 2001;

...

(o) The over broad discretionary powers of the sharia court judges in the application of personal status law and criminal law and, in particular, reported failures to take into account clear evidence of violence confirmed in medical certificates following violence against women;

...

109. The Committee recommends that the State party:

(a) Adopt in domestic penal law a definition of torture in terms consistent with article 1 of the Convention, including the differing purposes set forth therein, and ensure that all acts of torture are offences under criminal law and that appropriate penalties taking into account the grave nature of the offences are established;

...

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

(e) Ensure that its legal system provides victims of past acts of torture with redress and an enforceable right to fair and adequate compensation;

...

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(i) Consider adopting a Family Code, including measures to prevent and punish violence against women, especially domestic violence, including fair standards of proof;

...

CRC

- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 60 and 61.

60. The Committee notes with concern that there is no procedure available for children who are abused and/or neglected within the family.

61. In light of article 19 of the Convention, the Committee recommends that the State party:

(a) Establish effective procedures and mechanisms to receive, monitor and investigate complaints about child abuse and neglect, including intervention where necessary;

(b) Prosecute cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings;

(c) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases; and

(d) Provide proper alternative placement when this is in the best interest of the child.

- Kenya, CRC, CRC/C/111 (2001) 21 at paras. 97, 98, 118 and 119.

97. The Committee notes that the State party established a Standing Committee on Human Rights (SCHR) in 1996 to investigate alleged human rights violations, to advise the Government on all human rights matters and to increase public awareness about the issue. The Committee is concerned that insufficient resources (financial and human) have been allocated for the effective functioning of the SCHR. The Committee notes with concern that the SCHR has no specific responsibilities with regard to children and that the SCHR is not easily accessible to children.

98. The Committee encourages the State party to allocate adequate financial and human resources to the Standing Committee on Human Rights (SCHR) to ensure its effective functioning. The Committee further suggests that the State party should consider reviewing the status of the Committee and establishing an independent national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134) which would be competent to monitor and evaluate progress in the

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implementation of the Convention at the national level and, if appropriate, at the local level and to receive and investigate complaints of violations of child rights in a child-friendly manner, and to address them effectively. Meanwhile, the State party should take effective measures to ensure that the SCHR is easily accessible and child-sensitive in dealing with complaints of violations of the rights of children and in providing remedies for such violations in all regions of the country. The Committee further suggests that the State party initiate an awareness raising campaign about the SCHR and to facilitate its effective use by children. The Committee encourages the establishment of a focal point on children within the SCHR to monitor child rights. Finally, the Committee suggests that the State party consult further with OHCHR and seek technical assistance from UNICEF, among others.

...

118. The Committee expresses concern at the increasing number of children deprived of a family environment and at the absence of a distinction between children in need of special protection and child offenders in legal proceedings. Concern is also expressed at the inadequate facilities and services for children in need of special protection, as well as at the State practice of placing such children in juvenile remand facilities or police stations, which are considered places of safety. The Committee also notes with concern 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 trained personnel in this field. Concern is also expressed at the insufficient financial and human resources allocated for alternative care.

119. The Committee recommends that the State party take effective measures to improve alternative care, including through the allocation of adequate financial and human resources. It further recommends that the State party provide additional training, including in children 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, the Committee recommends that the State party take effective measures to ensure that children in need of care are not kept in juvenile remand facilities or police stations and encourages the efforts to make procedural and substantive distinction between children in need of special protection and child offenders.

- Oman, CRC, CRC/C/111 (2001) 36 at para. 202.

202. The Committee recommends that the State party:

(a) Establish a minimum age of criminal responsibility in accordance with the principles and provisions of the Convention;

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(b) Ensure that a system of juvenile justice fully integrates 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;

...

(d) Ensure that the deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(e) Ensure that children have access to legal aid and independent and effective complaints mechanisms;

(f) Consider alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;

(g) Train professionals in the area of rehabilitation and social reintegration of children; and

(h) Seek assistance from, among others, OHCHR, 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.

See also:

- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 418 and 419.
- Portugal, CRC, CRC/C/111 (2001) 48 at paras. 230, 231, 234, 235, 254 and 255.

230. Noting its 1995 concluding observations, the Committee is concerned that corporal punishment continues to be practised within the family, there is a lack of legislation prohibiting such punishment, and that insufficient measures have been adopted to prevent corporal punishment in this context.

231. The Committee recommends that the State party:

(a) Adopt legislation prohibiting corporal punishment in the family and in any other contexts not covered by existing legislation;

(b) Develop mechanisms to end the practice of corporal punishment, including the use of information campaigns targeting parents, teachers and children;

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(c) Promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society;

(d) Develop mandatory reporting systems for professionals working with children who detect the use of corporal punishment in the family.

...

234. The Committee notes the State party's recent initiative to develop mechanisms allowing doctors, teachers and other relevant professionals to lodge complaints of alleged sexual abuse or exploitation of children (Law 99 of 25 August 2001).

235. The Committee recommends that the State party:

...

(b) Make it mandatory for professionals to report to an appropriate body cases of abuse, including sexual abuse, and ensure the provision of appropriate training and adequate protection for professionals called upon to make such reports;

(c) Ensure the provision of rehabilitation assistance to child victims of abuse.

...

254. The Committee notes the "National Strategy in the Fight Against Drugs", but remains concerned at the lack of data on substance and alcohol abuse and smoking.

255. The Committee recommends that the State party:

(a) Continue its efforts to prevent substance abuse by children, including through the prohibition of the sale of such substances to children and through addressing factors leading to vulnerability;

(b) Study the interrelationship between accidents and substance abuse and take prevention and law enforcement measures in this regard;

(c) Pursue its efforts to use information campaigns to alert children and adults to the risks of substance abuse, and that the child victims of substance abuse be provided with appropriate care, rehabilitation and assistance.

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 359-362 and 393.

359. Further to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his visit to Cameroon (E/CN.4/2000/9/Add.2) and in line with the concluding observations of the Committee against Torture (A/56/44, paras. 60-66) and of the Human Rights Committee (A/55/40, paras. 184-227), the Committee is deeply concerned that children are victims of cruel, inhuman or degrading

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treatment, sometimes constituting torture, committed notably at police stations, in detention places and in prisons. The Committee is also very concerned at some instances of forced disappearance and extrajudicial execution of children.

360. In the light of the recommendations of the Committee against Torture and of the Human Rights Committee, the Committee recommends that the State party:

(a) Address the causes and incidence of torture and cruel, inhuman or degrading treatment of children, in order to end and prevent these violations of children's rights;

(b) Establish an independent mechanism to investigate reports of torture, forced disappearance and extrajudicial execution of children and to bring to justice the persons responsible;

(c) Adopt legislative measures for the fullest compensation and rehabilitation of child victims of torture;

(d) Establish accessible and child-sensitive structures for complaints of children; and

(e) Systematically train the police force, prison staff and the judiciary on the human rights of children.

361. While domestic legislation includes provisions for the payment of a maintenance allowance in the case of divorce or judicial separation, the Committee is concerned at the lack of implementation of these provisions, due mainly to widespread ignorance of the law, and at the lack of legal provisions regarding maintenance for children born out of wedlock.

362. The Committee recommends that the State party:

(a) Make widely known, notably to women who are illiterate, the provisions of domestic legislation concerning the payment of a maintenance allowance;

(b) Ensure that professional groups dealing with this issue are adequately trained and that courts are stricter regarding the recovery of allowances from solvent parents who refuse to pay;

(c) Take measures to ensure as far as possible the maintenance of children born out of wedlock by their parents, particularly their fathers.

...

393. ...[T]he Committee recommends that the State party:

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- (a) Raise the age of criminal responsibility;
- (b) Undertake all necessary measures to ensure the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the country;
- (c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period and limit by law the length of pre-trial detention;
- (d) Provide children with legal assistance at an early stage of the proceedings;
- (e) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including through addressing the problem of overcrowding in prisons and establishing special prisons for children with conditions suited to their age and needs, and in the meantime guarantee the separation of children from adults in prisons and places of pre-trial detention throughout the country;
- (f) Ensure that children in conflict with the law do not receive the same sanctions as adults;
- (g) Ensure that children remain in regular contact with their families while in the juvenile justice system;
- (h) Introduce regular medical examination of inmates by independent medical staff;
- (i) Establish an independent child-sensitive and accessible system for complaints for children;
- (j) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;
- (k) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings; and
- (l) Request technical assistance in the area of juvenile justice and police training from, *inter alia*, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

See also:

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 459 and 460.
- Gambia, CRC, CRC/C/111 (2001) 89 at paras. 415, 416, 434 and 435.

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415. While noting that the Department for Social Welfare is currently responsible for receiving and investigating individual complaints of violation of the rights of children, the Committee notes that the mandate of the Office of the Ombudsman does not adequately cover issues relevant to children's rights. The Committee is concerned that the State party has not established an independent monitoring mechanism to receive and investigate individual complaints of violation of the rights of children.

416. The Committee encourages the State party to expand the mandate of the Office of the Ombudsman or establish a separate monitoring mechanism to deal with complaints of violations of the rights of children and to provide remedies for such violations. This monitoring mechanism should be set up, in accordance with the Paris Principles (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, should be accessible to children, and be empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively. The Committee further suggests that the State party introduce an awareness-raising campaign to facilitate the effective use by children of such a mechanism. The Committee recommends that the State party seek technical assistance from, among others, OHCHR and UNICEF.

...

434. The Committee expresses concern at the increasing number of children deprived of a family environment and the inadequate facilities and services for them. The Committee also notes with concern 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. Concern is also expressed at the insufficient financial and human resources allocated for alternative care, as well as to the Department of Social Welfare.

435. The Committee recommends that the State party take effective measures to improve alternative care through, *inter alia*, the allocation of adequate financial and human resources, including to the Department of Social Welfare. It further recommends that the State party 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.

- Paraguay, CRC, CRC/C/111 (2001) 103 at paras. 514 and 515.

514. The Committee is deeply concerned that, although the State party's legislation states that the minimum age for recruitment into the armed forces is 18, minors constitute a considerable proportion of conscripts into the Paraguayan armed forces and national

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police, and very much regrets that its previous recommendation (CRC/C/15/Add. 75, para. 36) in this regard was not implemented. It is deeply worried at the number of cases of torture and ill-treatment of conscripts, including children, by their superiors and at cases of unclarified deaths of conscripts, which also involved minors. In particular, it notes with concern that the majority of these deaths and ill-treatment cases were not investigated, and that there are reports of forcible recruitment of children, especially in rural areas, and of falsification of documents proving their age.

515. The Committee urges the State party:

(a) To put an end to the practice of recruiting children into the Paraguayan armed forces and national police, in line with its previous recommendation (CRC/C/15/Add.75, para. 36), and punish those involved in forcible recruitment;

(b) To investigate all cases of ill-treatment and death of conscripts and suspend from duty the officials implicated in such accidents;

(c) To prosecute and punish those responsible for these violations;

(d) To provide compensation to the victims of human rights violations during military service or their families;

(e) To provide training on human rights, including children's rights, to army officials; and

(f) To ratify the Optional Protocol to the Convention on the involvement of children in armed conflict, setting 18 years as the minimum age for all military recruitment.

- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 539, 540 and 562-565.

539. The Committee notes the establishment of the Ombudsman by the 1997 Law on the Authorized Person of the Oliy Majlis for Human Rights. However, it is concerned that:

The mandate of the Authorized Person does not provide for regular monitoring and evaluation of progress in the implementation of the Convention;

The Law of 1997, which empowers the Authorized Person to receive and address complaints, does not provide for an effective mechanism to address complaints relating to violations of rights guaranteed under the Convention, particularly complaints from children.

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540. The Committee recommends that the State party:

(a) Ensure the independence of the institution of the Authorized Person is secured, as also recommended by the Human Rights Committee (see CCPR/CO/71/UZB);

(b) Strengthen its support for the Authorized Person, including through the provision of adequate human and financial resources, so as to comply with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134), and so as to include monitoring and evaluating progress in the implementation of the Convention at the national and local levels. This institution should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively;

(c) Seek technical assistance from, among others, the Office of the High Commissioner for Human Rights and UNICEF.

...

562. The Committee is deeply concerned by numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment, including for purposes of extorting confessions. The Committee deplores the insufficient efforts to investigate allegations of torture, as well as the failure to prosecute alleged perpetrators.

563. In the light of article 37 of the Convention, and recalling the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979, the Committee urges the State party to:

(a) Take all necessary effective steps to prevent incidents of ill-treatment from occurring;

(b) Implement the recommendations made by the Human Rights Committee (CCPR/CO/71/UZB), and the Committee against Torture (A/55/44, paras. 76-81);

(c) Provide the militia with training on how to deal with persons under 18;

(d) Ensure children are adequately informed of their rights when they are arrested and detained;

(e) Ensure that complaints procedures are simplified so that responses are appropriate, timely and child-sensitive, and provide rehabilitative support for victims.

564. The Committee expresses its concerns that:

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A high number of children, especially children with disabilities, are abandoned, or are otherwise deprived of a family environment;

Foster care, or other forms of family-based alternative care, is not sufficiently developed and available, with the result that children are placed in institutions;

Institutions (for example, "infants' homes"), because of lack of resources, provide children with very low quality housing and care;

The location and features of institutions do not facilitate family contact;

Effective mechanisms for children to communicate concerns and complaints about their placement are lacking;

There is no follow-up of children who have left institutional care.

565. The Committee recommends that the State party:

- (a) Take effective measures, including the development of strategies and awareness-raising activities, to reduce and prevent the abandonment of children;
- (b) Promote the family as the best environment for the child, through counselling and community-based programmes to assist parents to keep children at home;
- (c) Take effective measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care;
- (d) Place children in institutions only as a last resort;
- (e) Take all necessary measures to improve conditions in institutions;
- (f) Ensure that children living there enjoy all the rights laid down in the Convention, including the right to maintain personal relationships and direct contact with their parents and families on a regular basis;
- (g) Provide support and training for personnel in institutions, including social workers;
- (h) Establish effective mechanisms to receive and address complaints from children in care, to monitor standards of care and to establish regular periodic review of placement;
- (i) Provide adequate follow-up and reintegration services for children who leave institutional care.

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See also:

- Belarus, CRC, CRC/C/118 (2002) 54 at paras. 237 and 238.
- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 67 and 68.

- Cape Verde, CRC, CRC/C/111 (2001) 135 at paras. 603, 604, 634 and 635.

603. Noting the recent efforts to amend the Minors Code and the Family Code, the Committee remains concerned that further strengthening of legislation is required. The Committee is also concerned that the Convention is not applied directly by the courts and administrative structures in the State party and that, given the incompatibility of some elements of domestic legislation, this may lead to practices that are not in accordance with the Convention.

604. The Committee recommends that the State party:

(a) Amend outdated legislation and adopt new legislation, including the new Penal Code, in accordance with the provisions of the Convention;

(b) Encourage domestic judicial and administrative mechanisms to apply the Convention directly in domestic proceedings.

...

634. The Committee is concerned at incidents of abuse, including sexual abuse and incest, and the mistreatment of children in the family. The Committee is concerned, in addition, at the incidence of domestic violence, which has a negative impact on children.

635. The Committee recommends that the State party make every effort:

(a) To monitor and record incidents of abuse, including sexual abuse and incest, mistreatment of children and domestic violence, including violence against women in the family, making particular efforts to improve data collection on these concerns;

(b) Effectively investigate cases of domestic violence and violence in schools, through a child-sensitive judicial procedure, and apply sanctions to perpetrators with due regard given to guaranteeing the right to privacy of the child;

(c) Proceed with a study of violence against women and address this concern through, *inter alia*, the promotion of women's human rights, the strengthened implementation of relevant provisions in the Constitution and other legal instruments, and by ensuring that women have access to suitable complaint mechanisms;

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(d) Ensure that cultural taboos discouraging complaints of violence are broken down;

(e) Give appropriate weight to children's views in legal proceedings; provide support services to child witnesses in legal proceedings and services for physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention; and take measures to prevent the criminalization and stigmatization of victims;

(f) Seek technical assistance from, among others, UNICEF.

- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 44, 45 and 64.

44. The Committee regrets that its previous recommendation to the State party to develop a permanent and multidisciplinary mechanism for monitoring the implementation of the Convention has not been followed up ([CRC/C/15/Add.54], para. 24). The Committee notes the information that the Higher Council for Childhood is dealing with complaints about the violations of the rights of children in an informal way, but is concerned that the combination of a coordinating and a monitoring role would hamper effective and independent monitoring of the implementation of the Convention.

45. The Committee encourages the State party:

(a) To reinstate the process of 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, including implementation by the private sector and NGOs as providers of services to children. This institution should be empowered to receive and investigate individual complaints of violations of child rights in a child-sensitive manner and address them effectively; and

(b) To seek technical assistance from, among others, OHCHR and UNICEF.

...

64. In light of article 37 (a) of the Convention, the Committee strongly recommends that the State party:

(a) Enforce, or, when appropriate, review existing legislation with a view to preventing children being held *incommunicado*, and investigate in an effective way reported cases of ill-treatment of children;

(b) Ensure that alleged perpetrators are transferred from active duty or suspended while

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they are under investigation, that they are dismissed and punished if convicted, and that court proceedings and sentences are publicized;

(c) Train law enforcement personnel on child rights issues;

(d) In the light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.

- Greece, CRC, CRC/C/114 (2002) 25 at paras. 109, 110, 125, 126, 142 and 143.

109. In light of the establishment of the National Observatory on the Rights of Children, and given the existence of the Ombudsman's Office and the National Human Rights Committee, the Committee is concerned that there is no clear division of labour between these bodies, which may have a negative impact on effective monitoring of the Convention's implementation.

110. The Committee recommends that the State party:

(a) Clearly define the role of each of the above bodies in accordance with the Paris Principles, and ensure that they are easily accessible for children and can deal with individual complaints in a child sensitive manner;

(b) Proceed with its efforts to develop the work of the National Observatory on the Rights of Children, including through the timely implementation of the law on the Observatory.

...

125. While noting the State party's legislation against xenophobia and hate speech, the Committee remains deeply concerned:

(a) At the discrimination, including some societal discrimination and instances of xenophobia, against, among others, children from distinct ethnic, religious, linguistic or cultural groups within the State party;

(b) At the fact that domestic legislation does not include a prohibition of discrimination on the ground of disability.

126. The Committee recommends that the State party:

(a) Urgently strengthen its efforts to end all forms of discrimination affecting children, as provided in article 2 of the Convention, including through the strengthening of the

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implementation of anti-discrimination laws and the possibilities for children and their parents who have been victims of discrimination to seek recourse through the judicial system;

(b) Amend domestic legislation so as to ensure a prohibition of discrimination on the ground of disability;

(c) Implement measures to ensure equal access to services such as education and health, welfare and other social services for all children without distinction, including children from distinct ethnic, religious, linguistic or cultural groups;

(d) Introduce public awareness and sensitivity campaigns on tolerance and respect for the other.

...

142. While acknowledging the many activities of the Child Health Institute in the field of child abuse and neglect and the new bill to establish the “legal bystander” for the child victim, the Committee remains concerned:

...

(b) At indications that physical, psychological, and sexual abuse are prevalent within the family and in the context of institutional care;

(c) That social, medical and other service resources through which the State party can respond to abuse and neglect are primarily limited to Athens and that even these are insufficient.

143. The Committee recommends that the State party:

...

(b) Develop and implement a national programme for the prevention and reduction of the incidence of child abuse and neglect of children within the family and within institutions, *inter alia* by conducting awareness raising campaigns and providing adequate support to families at risk;

(c) Develop and implement an effective system for reporting and referral of cases of child abuse and neglect and appropriate measures for the protection of child victims and the provision of rehabilitative assistance and the prosecution and treatment of alleged perpetrators of abuse and neglect;

(d) Strengthen the capacity of social services across the country to identify and treat instances of abuse or neglect of children, including for physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or sexual exploitation, in accordance with article 39 of the Convention; take measures to prevent the criminalization and stigmatization of victims; strengthen the use

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of child-sensitive methods of investigation and presentation of court evidence and the availability of expert multidisciplinary child assistance teams, including psychosocial counsellors; and ensure that domestic legislation provides adequate protection for all children, both girls and boys, from sexual and other forms of abuse;

...

- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 207 and 208.

207. The Committee is deeply concerned that torture is still used by law enforcement personnel during police investigation and in detention centres as mentioned in the State party's report (para. 159).

208. The Committee urges the State party to take all necessary measures:

(a) To immediately put an end to these forms of torture or violence against children and to address their causes in order to prevent their recurrence;

(b) To prevent cases of torture through, *inter alia*, the presence of social workers during investigations and in places of detention;

(c) To establish an independent mechanism to investigate reports of torture and to bring to justice the persons responsible;

(d) To adopt legislative measures for the fullest compensation and rehabilitation of child victims of torture;

(e) To establish accessible and child-sensitive structures to receive and address complaints of children; and

(f) To train systematically the police forces, prison staff and the judiciary on the human rights of children.

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 264, 265, 287, 288, 321 and 322.

264. The Committee is concerned at the absence of an independent mechanism for monitoring the implementation of the Convention.

265. The Committee recommends that the State party:

(a) Establish an independent body with responsibility for monitoring implementation of

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the Convention, in accordance with the Paris principles;

(b) Ensure that any monitoring mechanism include child-sensitive procedures through which children can make complaints of abuses of their rights.

...

287. The Committee is concerned:

(a) At acts of violence and abuse, including sexual abuse, committed against children in schools and alternative care institutions and by members of the public or the police force in the streets and that boys are not as well protected from sexual offences as girls;

(b) That corporal punishment is widely practised in the home, in schools and in other public institutions, such as prisons, and in alternative care contexts;

(c) That, as noted in a 1997 study, sexual abuse "is mainly perpetrated by relatives, through forced marriage, or through rape within marriage, or even as part of magical-religious practices" and that "sexual abuse accounts for most cases of abuse against minors recorded in all the country's provinces";

(d) That the State party has insufficient mechanisms for monitoring abuse and neglect of children in the family and that, although a telephone hotline exists for children to make complaints of abuse, very few children have access to a telephone or the means to pay for a call.

288. The Committee recommends that the State party:

(a) Take action to address acts of violence and abuse, including sexual abuse, committed against children in the family, in schools and in the streets through, *inter alia*, the use of training and information campaigns on the impact of violence on children, children's rights and the prosecution of perpetrators;

(b) Take action to end the practice of corporal punishment in the home, in schools and in all other contexts, including through legislative and administrative measures, as well as public education initiatives to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment;

(c) Make every effort to ensure the provision of treatment and rehabilitation to the victims of violence and abuse;

(d) Take note of the recommendations adopted by the Committee at its 2000 and 2001 days of general discussion on children and violence (CRC/C/100, para. 688, and CRC/C/111, paras. 701-745);

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(e) Develop mechanisms to monitor the situation of children in the family and record and end abusive practices;

(f) Develop child sensitive mechanisms through which children can report incidents of sexual abuse, including the large majority of children who do not have access to telephones.

...

321. The Committee is concerned that:

(a) Some laws, policies and practices in the State party's juvenile justice system are incompatible with the principles and provisions of the Convention, including articles 37, 40 and 39;

(b) Children aged 16 and 17 do not benefit from the protections afforded by juvenile justice standards;

(c) The list of punishable acts described by the State party in its initial report, including begging, vagrancy and promiscuity, may lead to the inappropriate targeting of children by the judicial system;

(d) While the illegal detention of minors and violence by the police have decreased, such incidents continue;

(e) In particular, the detention of minors persists "due to the poor training and ignorance of legal norms on the part of the policemen involved", as indicated in the State party's initial report, and that minors are incarcerated with adult detainees;

(f) There is a serious lack of capacity within the judicial system to provide rapid intervention or trial, as needed, for juvenile offenders;

(g) There have been incidents of mistaken detention of children below the age of age 16.

322. The Committee recommends that the State party:

(a) Develop laws, policies and mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of discussion on the administration of juvenile justice;

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- (b) Ensure that all persons under 18 benefit from the protection of international juvenile justice provisions;
- (c) Review the list of acts or behaviour for which juveniles may be prosecuted under penal law, with a view to reducing the list and establishing non-judicial responses, notably through social assistance;
- (d) Ensure that all acts of violence by the police towards minors are ended, and that independent investigation and prosecution of police officers guilty of such acts are carried out in an effective manner;
- (e) Ensure that no children are detained illegally and that, when detention is necessary as a measure of last resort, children are detained for the shortest time necessary and separately from adults;
- (f) Strengthen the capacity of the juvenile justice system to provide a timely response, in accordance with international standards;
- (g) Implement its own recommendations, as set out in its initial report, including:

“To strengthen legal provisions and ethical procedures in order to ensure that, in cases where detention is inevitable, treatment appropriate to the age and needs of the minors involved is guaranteed, they are allowed frequent contact with their family, they have immediate access to all necessary legal assistance, and they have the freedom and right to ensure their defence” (paragraph 565 of the State party’s report);

“To strengthen training in national and international legislation on minors for all those involved in the administration of juvenile justice, as well as the managers and staff of the units where children may eventually be subject to detention measures” (para. 566);

“To establish ‘mechanisms for the physical and psychological recovery and social reintegration of children who infringe the law’” (para. 567);

“To create alternatives to detention, particularly with a view to providing the relevant assistance to which the child is entitled, as well as greater articulation with other social sectors such as social action, education and civil society organizations that are able to incorporate such children into their juvenile rehabilitation programmes” (para. 567);

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“To establish mechanisms of cooperation between the authorities responsible for justice administration for minors and communities, which have the potential to support the recovery and reintegration of juvenile delinquents. There is also an urgent need to fill the vacuum by creating occupational and recreational centres as well as special services that can respond to the needs of children at risk” (para. 568).

(h) Seek technical assistance in this regard from, *inter alia*, UNICEF, OHCHR and the United Nations Office for Drug Control and Crime Prevention, through the Coordination Panel on Technical Assistance and Cooperation on Juvenile Justice.

- Chile, CRC, CRC/C/114 (2002) 90 at paras. 377 and 378.

377. The Committee reiterates its concern that the Juvenile Act of 1967, based on the doctrine of “irregular situation”, which does not make a clear distinction, in terms of judicial procedures and treatment, between children in need of care and protection and those in conflict with the law, is still in force. It also notes with concern that detention is not used as a last resort, especially in the case of children who are poor and socially disadvantaged, and that often children are detained in detention centres for adults. The Committee further expresses its concern at the fact that the criminal law and procedure for adults can be applied also to children aged between 16 and 18 who acted with discernment and that the Committee’s previous recommendation on addressing the question of the minimum age of criminal responsibility ([CRC/C/15/Add.22 of 25 April 1994], para. 17) was not implemented.

378. In line with its previous recommendation ([CRC/C/15/add.22 of 25 April 1994], para. 17), the Committee recommends that the State party:

(a) Expedite the adoption of the draft law on children in conflict with the law and increase the budget allocations for the administration of juvenile justice;

(b) Address the question of the minimum age of criminal responsibility in light of article 40, paragraph 3 (a);

...

(d) Ensure that all persons under 18 benefit from special protection measures in the field of administration of juvenile justice;

(e) Use pre-trial detention only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law and ensure that children are separated from adults in every case;

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(f) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

(g) Strengthen preventive measures, such as supporting the role of families and communities, in order to help eliminate the social conditions leading to such problems as delinquency, crime and drug addiction;

(h) Incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment;

(i) Take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system;

(j) Seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 434 and 435.

434. ...The Committee notes with concern the reported incidents of sexual abuse and exploitation of children within the school environment.

435. The Committee recommends that the State party:

...

(i) Provide children with a safe school environment by, *inter alia*, taking all necessary steps to prevent abuse and exploitation of children by school personnel, taking effective disciplinary measures against school personnel who have committed those offences and reporting these incidences to the competent authorities, notably through child-sensitive structures for complaints;

...

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 460, 461, 485 and 486.

460. The Committee notes the establishment of the Consultative Council's Human Rights Committee. It also notes the information that the Human Rights Committee continues to receive individual complaints regarding the implementation of children's rights. The Committee is nevertheless concerned that the Human Rights Committee:

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- (a) Does not fully reflect the Paris Principles; and
- (b) Does not have a child rights-sensitive procedure for dealing with complaints under the Convention.

461. The Committee recommends that the State party:

- (a) Ensure that the Human Rights Committee fully complies with the Paris Principles relating to the status of national institutions (General Assembly resolution 48/134);
- (b) Strengthen its support of the Human Rights Committee through the provision of adequate human and financial resources, and explicitly include in its mandate the monitoring and evaluation of the implementation of the Convention. The Human Rights Committee should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and to address them effectively. In this regard, the State party could consider the establishment of a focal point for children within the Human Rights Committee; and
- (c) Seek technical assistance from, among others, the Office of the High Commissioner for Human Rights and UNICEF.

...

485. The Committee is encouraged by the efforts made by the State party towards greater openness and accountability with respect to human rights, including the withdrawal of its reservation to article 20 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the decision to transfer the public prosecution office from the Ministry of the Interior to the Ministry of Justice. The Committee regrets, however, that no information has been provided in the State party's report concerning the serious allegations of torture and arbitrary arrest of persons under 18 referred to in other reports, including the decisions and opinions of the Working Group on Arbitrary Detention (e.g. E/CN.4/1997/Add.1, E/CN.4/1998/44/Add.1); and the reports of the Special Rapporteur on torture (e.g. E/CN.4/1997/7/Add.1, E/CN.4/1999/61, E/CN.4/2000/9, E/CN.4/2001/66).

486. The Committee strongly recommends that the State party:

- (a) Investigate effectively all cases of torture and inhuman and degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;
- (b) Pay full attention to the victims of these violations and provide them with adequate compensation, recovery and social reintegration...

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- Belgium, CRC, CRC/C/118 (2002) at paras. 103 and 104.

103. The Committee notes the establishment, since the initial report was considered of the Children's Rights Commissioner for the Flemish Community. The Committee acknowledges the activities of the *Délégué Général aux Droits des Enfants* in the French Community and of the Centre for Equal Opportunities and Opposition to Racism. However, the Committee is concerned that there is no independent mechanism to monitor the implementation of the Convention and empowered to receive and address complaints of children in the German-speaking Community, nor at the federal level.

104. The Committee recommends that the State party:

(a) Establish independent human rights institutions in the German-speaking Community and at the federal level, in accordance with the Paris Principles (General Assembly resolution 48/134), to monitor and evaluate progress in the implementation of the Convention. They 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;

(b) Ensure that all the human rights institutions have formal advisory functions with the respective legislative bodies and that they establish formal links with each other.

- Switzerland, CRC, CRC/C/118 (2002) 78 at paras. 334 and 335.

334. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against foreign children and at the prevalence of abuse.

335. The Committee endorses the recommendations made by the Committee against Torture in that regard (A/53/44, para. 94) and, in light of article 37 of the Convention, recommends that the State party:

(a) Set up child-sensitive mechanisms in all cantons to receive complaints against law-enforcement officers regarding ill-treatment during arrest, questioning and police custody; and

(b) Systematically train the police force on the human rights of children.

- United Arab Emirates, CRC, CRC/C/118 (2002) 90 at paras. 373, 374, 394 and 395.

373. The Committee welcomes information concerning draft laws (i.e. the Child

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Protection Act, the Disabled Persons' Act, and the Juvenile Delinquency Act). However, it is concerned that several rights contained in the Convention (such as non-discrimination) are not adequately reflected in domestic law. It is also concerned that with respect to the enjoyment of children's rights throughout the State party, the application of different laws governing different legal jurisdictions may lead to discrimination. In particular, the Committee is concerned that:

- (a) Gaps in federal and local legislation may result in irregularities and disparities in the outcomes of the judicial process;
- (b) Discrepancies may occur between Shariah judges' decisions, and between Shariah court decisions and decisions of other types of courts in the State party;
- (c) Personal status law remains uncodified;
- (d) Shariah courts are not regulated by uniform procedural rules, including in the area of criminal matters; and
- (e) In Shariah courts federal and local laws are considered as secondary sources, and Shariah judges allegedly do not follow Supreme Court interpretation of United Arab Emirates law.

374. The Committee recommends that the State party:

- (a) Conduct a comprehensive review of its domestic laws, including customary laws, administrative regulations and legal procedural rules, to ensure that they conform to international human rights standards, including the Convention;
- (b) Ensure the speedy promulgation of legislation relating to child rights and its effective implementation; and
- (c) Ensure that laws are sufficiently clear and precise, are published, and are accessible to the public.

...

394. The Committee notes information on the existence of a children's parliament in Sharjah, student councils at secondary schools, as well as social service units, which deal with complaints about student behaviour. However, it is concerned that traditional attitudes towards children in society may limit the respect for their views, especially within the family and in schools. In particular, it is concerned that children are not adequately informed about how to have input into policies that affect them, nor about how their views will be taken into consideration once they have been solicited, and that sufficient attention has not been accorded to the participation of primary and secondary

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students in school governance, including in areas such as school regulations and management of discipline.

395. The Committee recommends that the State party:

(a) Continue to promote and facilitate within the family, the school, institutions, the courts, and administrative bodies, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Strengthen the mandate of the social service units to allow students to submit complaints about violations of their rights in the school setting;

(c) Develop skills-training programmes in community settings for parents, teachers, social workers, and local officials to support children to express their informed views and opinions and to have them taken into consideration; and

(d) Seek assistance from, among others, UNICEF.

- Saint Vincent and the Grenadines, CRC, CRC/C/118 (2002) 101 at paras. 449 and 450.

449. Noting the recent establishment of the Register of Child Abuse, the annual celebration of Child Abuse Awareness and Prevention Month and the active involvement of the Department of Family Services as the body that receives and handles reports of child abuse and neglect, the Committee remains concerned that:

(a) The instance of child abuse, including sexual abuse, is high and, as noted in its report, the State party has made insufficient effort to address this concern;

(b) The abuse, including sexual abuse, of children often occurs within the family, committed by parents and siblings, and is often hidden;

(c) Some perpetrators of sexual abuse are able to pay money to the families of victims to avoid prosecution and even to perpetuate the abuse;

(d) There are many cases of neglect of children by parents, including the late presentation of a sick child at a hospital or clinic;

(e) Only the police and not the social services have the authority to remove a child from a family situation in which the child is suffering abuse or neglect, and this may add to the trauma suffered by the child.

450. The Committee recommends that the State party:

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- (a) Undertake a study on the scope and nature of child abuse and neglect;
- (b) Address the abuse, including sexual abuse, and neglect of children, giving particular attention to their occurrence within the family, through, *inter alia*, developing a strategy and programmes of prevention, response and support to victims;
- (c) In the context of the Committee's recommendation [in paras. 418-427] of these concluding observations:
 - (i) Strengthen further the capacity of the Department of Family Services and the work of the Register of Child Abuse;
 - (ii) Establish effective child-sensitive procedures and mechanisms to receive, monitor and investigate complaints, and to intervene where necessary;
 - (iii) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment;
- (d) Consider giving the necessary legal authority to the social services to take urgent action to protect children from abuse;
- (e) Strengthen its efforts to prosecute persons responsible for perpetrating abuse and provide medical help and counselling to those perpetrators in need of such assistance;
- (f) Take all necessary measures to prohibit payment and acceptance of money with the purpose of perpetrators of sexual abuse against children avoiding prosecution, and prosecute the persons concerned;
- (g) Provide child victims of abuse with the appropriate medical and psychological support, including recovery and social reintegration assistance for child victims and their families;
- (h) Strengthen the education provided to young parents in the care and early attention they should give to their sick children and in the prevention of abuse and neglect;
- (i) Take into consideration the recommendations of the Committee adopted on the occasion of its days of general discussion on children and violence (CRC/C/100, para. 688, and CRC/C/111, paras. 701-745);

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(j) Seek assistance from, among others, UNICEF and the World Health Organization.

See also:

- Sudan, CRC, CRC/C/121 (2002) 53 at paras. 258 and 259.
- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 46, 47, 61, 62, 69 and 70.

46. While noting the existence of the *Defensor del Pueblo*, the Committee is concerned at the absence of an overall national mechanism with the mandate to regularly monitor and evaluate progress in the implementation of the Convention and which is empowered to receive and address complaints by children. It further notes that the draft law on the comprehensive protection of the rights of the child, which has not yet been enacted, includes provisions for the creation of a Child Rights Defender.

47. The Committee encourages the State party, as previously recommended ([CRC/C/15/Add.36], para. 15), to establish an independent and effective mechanism, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (The Paris Principles) (General Assembly resolution 48/134, annex), either as a part of a national human rights institution or as a separate body, such as a children ombudsman, which should be provided with adequate human and financial resources and easily accessible to children, that would:

- (a) Monitor the implementation of the Convention;
- (b) Deal with complaints from children in a child-sensitive and expeditious manner;
- (c) Provide remedies for violations of their rights under the Convention.

In this regard, the Committee further recommends that the State party consider seeking technical assistance from, among others, UNICEF and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

61. The Committee expresses its deep concern about institutional violence and specific reports of torture and ill-treatment of children held at police stations (*commissarias*) which, in some cases, have resulted in death. It is also extremely concerned at additional reports of police brutality, specifically the phenomenon of *gatillo fácil* (easy trigger syndrome), especially in the Province of Buenos Aires, which has led to the death of many children. It notes that, according to the Supreme Court of Justice of the Province of Buenos Aires, several of the children who died had previously reported pressures and torture by the provincial police and that the majority of the cases are not adequately investigated and the perpetrators not brought to justice.

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62. In light of article 37 (a) of the Convention, the Committee urges the State party:

- (a) To undertake a study on the above-mentioned issues in order to assess their extent, scope and nature;
- (b) To enforce the recently signed National Plan of Action for the Prevention and Elimination of Institutional Violence;
- (c) To investigate, in an effective way and within a reasonable time, reported cases of killings, torture and ill-treatment of children;
- (d) Urgently to take measures to transfer from active duty or suspend, as appropriate, alleged perpetrators while they are under investigation, and release them from service if convicted;
- (e) To provide systematic training of law enforcement personnel in human and children's rights and ways to avoid the use of force;
- (f) To establish a complaint mechanism, which should be easily accessible and child-sensitive and inform children about their rights, including the right to complain;
- (g) To ensure that independent and qualified medical personnel are required to carry out regular examinations of child detainees;
- (h) In light of article 39, to take all appropriate measures to ensure possibilities for physical and psychological recovery and social reintegration for child victims of torture and/or ill-treatment, and that they receive compensation.

...

69. The Committee, while noting the adoption of Law 24.417 on protection against domestic violence, remains concerned about the extent of domestic violence, the lack of standardized procedures for the identification and reporting of cases of neglect, ill-treatment and abuse, and the limited services for the support of victims, especially in the provinces.

70. In light of article 19 of the Convention, the Committee recommends that the State party:

...

- (b) Adopt and implement effectively adequate measures and policies, including public campaigns, on alternative forms of discipline, that contribute to changing attitudes;
- (c) Investigate effectively cases of domestic violence and ill-treatment and abuse of

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children, including sexual abuse within the family, 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;

(d) Increase measures to provide support services to children in legal proceedings and for the physical and psychological recovery and social reintegration of victims of rape, abuse, neglect, ill-treatment and violence, in accordance with article 39 of the Convention;

...

See also:

- Seychelles, CRC, CRC/C/121 (2002) 41 at paras. 170 and 171.
- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 440 and 441.
- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 108, 109, 131, 132, 152 and 154.

108. The Committee welcomes the establishment of an independent Children's Commissioner in Wales, but is concerned at the limited powers of the Commissioner, in particular in relation to non-devolved matters. The Committee welcomes the plans for the establishment of an independent human rights institution for children in Northern Ireland and in Scotland. The Committee is, however, deeply concerned that the State party has not yet established an independent human rights institution for children in England.

109. The Committee, in line with its previous recommendation [CRC/C/15/Add.34] recommends that the State party:

(a) Establish independent human rights institutions with a broad mandate and appropriate powers and resources all across the State party and at the national level, in accordance with the Principles relating to national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134, annex), to monitor, protect and promote all the rights of the Convention for all children. They should be easily accessible to children, able to determine their own agenda, empowered to investigate violations of children's rights in a child-sensitive manner and ensure that children have an effective remedy for violations of their rights;

(b) Ensure that all the human rights institutions have formal advisory functions with the respective legislative bodies and that they establish formal links, including of cooperation, with each other;

(c) Provide national human rights institutions with adequate resources and appropriate

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staff;

(d) Ensure that children and children's organizations are effectively involved in their establishment and activities.

...

131. ...[T]he Committee is deeply concerned that one or two children die every week as a result of violence and neglect in the home. It is also concerned at the prevalence of violence, including sexual violence, throughout the State party against children within families, in schools, in institutions, in the care system and in detention. It also notes with deep concern the growing levels of child neglect. The Committee is alarmed at the lack of a coordinated strategy to limit the extent of these phenomena. It particularly notes the absence of adequate, systematic follow-up of child deaths and that crimes committed against children below the age of 16 are not recorded. In the care system, the Committee notes a lack of consistent safeguards for children who are privately fostered. The Committee welcomes the steps taken by the Government to support child witnesses in court, but notes the lack of public education on the role of the child protection system.

132. In line with its previous recommendations ([CRC/C/15/add.34], para. 31) and in light of articles 3, 6, 12, 19 and 37 of the Convention, the Committee recommends that the State party:

- (a) Introduce a system of statutory child death inquiries;
- (b) Develop a coordinated strategy for the reduction of child deaths as a result of violence and the reduction of all forms of violence against children;
- (c) Ensure consistent legislative safeguards for all children in alternative care, including those who are privately fostered;
- (d) Carry out large-scale public education campaigns and programmes, including through the schools, aimed at reducing child deaths and child abuse with information on the role of statutory and other services in protecting children;
- (e) Establish effective procedures and mechanisms to receive, monitor, investigate and prosecute instances of abuses, ill-treatment and neglect, ensuring that the abused child is not victimized in legal proceedings and that her/his privacy is protected;
- (f) Record in the British Crime Survey all crimes committed against children;
- (g) Provide for the care, recovery and reintegration of victims;

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(h) Strengthen the reporting system, through full support for the confidential centres for abused children, and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment.

...

152. ...[T]he Committee notes with concern that:

- (a) The Crime and Disorder Act 1998 has introduced in England and Wales measures that may violate the principles and provisions of the Convention;
- (b) Children can be tried in adult courts in certain circumstances;
- (c) Children in custody do not always have access to independent advocacy services and to basic services such as education, adequate health care, etc.;
- (d) The privacy of children involved in the criminal justice system is not always protected and their names are, in cases of serious offences, often published;
- (e) Young people of 17 years of age are considered as adults for the purpose of remand.

...

154. ...[T]he Committee recommends that the State party:

- (a) Considerably raise the minimum age of criminal responsibility;
- (b) Review the new orders introduced by the Crime and Disorder Act 1998 and make them compatible with the principles and provisions of the Convention;
- (c) Ensure that no child can be tried as an adult, irrespective of the circumstances or the gravity of his/her offence;
- (d) Ensure that the privacy of all children in conflict with the law is fully protected in line with article 40 (2) (b) (vii) of the Convention;
- (e) Ensure that detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention, and encourage the use of alternative measures to the deprivation of liberty;
- (f) Ensure that every child deprived of his or her liberty has access to independent advocacy services and to an independent, child-sensitive and accessible complaint procedure;
- (g) Take all necessary measures, as a matter of urgency, to review the conditions of

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detention and ensure that all children deprived of their liberty have statutory rights to education, health and child protection equal to those of other children;

(h) Review the status of young people of 17 years of age for the purpose of remand with a view to giving special protection to all children under the age of 18 years;

(i) Allocate appropriate resources for the Children's Hearings in Scotland to allow the number of cases dealt with to be substantially increased and to allow young offenders of 16 to 18 years of age to be included in the Children's Hearings system.

- Seychelles, CRC, CRC/C/121 (2002) 41 at paras. 197 and 198.

197. Acknowledging the State party's efforts to develop a foster care system, the Committee is concerned at the persistent lack of alternatives to residential care for children deprived of a family, and at the high proportion of children placed in institutions because of social or economic problems affecting their families. Furthermore, the Committee is deeply concerned that there is no periodic review of private or public alternative care facilities and that private and public institutions are not subject to the same standards or procedures.

198. The Committee recommends that the State party review its policies on alternative care for children deprived of a family with a view to developing a more integrated and accountable system of care and support by:

(a) Strengthening and expanding the foster care system through improved training of social workers and increased counselling and support for foster families;

(b) Enhancing coordination between all persons involved in the care of children deprived of a family environment, including police, social workers, foster families and the staff of public and private orphanages;

(c) Establishing a set of standards and procedures for all public and private organizations working with these children that encompass the principles of the best interests of the child and respect for the views of the child and that ensure that their placement is periodically reviewed, in accordance with article 25 of the Convention.

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 308, 309, 329, 330, 340 and 341.

308. While noting the appointment of the Commissioner for Human Rights of the Supreme Council of Ukraine, the Committee remains concerned that the mandate of the

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Commissioner does not provide for the regular monitoring and evaluation of progress in the implementation of the Convention. The Committee is further concerned that the office of the Commissioner does not include a mechanism to address individual complaints relating especially to violations of the rights guaranteed under the Convention.

309. The Committee encourages the State party to appoint, within its structure, either a commissioner specifically responsible for children's rights, or establish a specific section or division responsible for children's rights, that would be specifically responsible for addressing complaints made by children in a child-sensitive manner. In this respect, the Committee refers to its General Comment No. 2 on the role of national human rights institutions.

...

329. The Committee is also concerned at continued allegations of children, in particular Roma children, being ill-treated and tortured by law enforcement officials and that these allegations are not effectively investigated by an independent authority.

330. The Committee recommends that the State party:

(a) Amend the legislation defining torture to bring it into line with article 37 (a) of the Convention;

(b) Respond to allegations of torture and other cruel, inhuman or degrading treatment or punishment of children;

(c) Ensure the inadmissibility of evidence obtained through the use of torture;

(d) Take measures to ensure follow-up to the recommendations made by the Human Rights Committee and the Committee against Torture as they relate to the Convention on the Rights of the Child;

(e) Take immediate measures to stop police violence against children belonging to minorities, in particular the Roma, and challenge the prevailing impunity for such acts of harassment;

(f) Take all legislative measures to prohibit all forms of torture and other cruel, inhuman or degrading treatment or punishment;

(g) Provide support for the care, recovery, reintegration and compensation of victims.

...

340. The Committee is concerned that alternative care, such as foster care, or other forms of family-based alternative care, are not sufficiently developed and available. The Committee is further concerned that children lack effective mechanisms to

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communicate concerns and complaints about their placement.

341. In light of article 20 of the Convention, the Committee recommends that the State party:

(a) Consider establishing or strengthening at the national, regional and local levels the mechanism in charge of alternative care within the system of social welfare;

(b) Take effective measures, including the development of strategies and awareness-raising activities, to prevent or reduce the abandonment of children;

(c) Take effective measures to increase and strengthen foster care, family-type foster homes and other family-based alternative care and correspondingly decrease institutional care as a form of alternative care;

(d) Place children in institutions only as a measure of last resort and as a temporary measure;

(e) Take all necessary measures to improve conditions in institutions, in accordance with article 3, paragraph 3, of the Convention, and to increase the participation of children;

...

- Republic of Moldova, CRC, CRC/C/121 (2002) 89 at paras. 383, 384, 400 and 401.

383. The Committee notes the existence of a National Human Rights Centre and the information that an ombudsperson for children is part of the National Council for Child Rights Protection, but it is concerned at the effectiveness of these monitoring bodies given the lack of a clear statutory mandate to deal with complaints of violations of children's rights and the lack of transparent and child-sensitive procedures for addressing such complaints.

384. The Committee recommends that the State party appoint, within the National Human Rights Centre or independently, an ombudsperson or commissioner to monitor the implementation of the Convention at the national and local levels, in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134, annex) and taking into full account the Committee's General Comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child.

...

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400. The Committee notes the development of the Child Care Reform and the establishment of the Working Group for Alternatives to Institutionalization, but expresses its serious concern at the large number of children who are placed in institutions as a measure of social protection. It further notes with concern that children, in those institutions, are neglected and ill-treated and, because of a lack of resources, are not provided with adequate housing and care and appropriate basic services.

401. In light of article 20 of the Convention, the Committee recommends that the State party:

(a) Fully implement the Child Care Reform by providing it with the necessary human and financial resources;

(b) Take effective measures to develop alternative measures to institutionalization, such as foster care, family-type foster homes and other family-based alternative care, and place children in institutions only as a measure of last resort;

(c) As preventive measures, improve social assistance and support to families to help them with their child-rearing responsibilities, including through education, counselling and community-based programmes for parents;

(d) Take all necessary measures to improve conditions in institutions (article 3, paragraph 3, of the Convention);

(e) Take all necessary measures to prevent neglect and ill-treatment of children in institutions and provide support and training for personnel in institutions, including social workers;

(f) Establish effective mechanisms to receive and address complaints from children in care, to monitor standards of care and, in light of article 25 of the Convention, to establish regular periodic review of placement;

(g) Provide adequate follow-up and reintegration support and services for children who leave institutional care.

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 451, 457, 458, 463, 464, 487 and 489.

451. In line with its previous recommendations ([CRC/C/15/Add. 19], para. 14), the Committee recommends that the State party:

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- (a) Make greater efforts to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2;
- (b) Prioritize and target social services to children belonging to the marginalized and most vulnerable groups through a proactive and comprehensive strategy;
- (c) Ensure effective law enforcement, undertake studies and launch comprehensive public information campaigns to prevent and combat all forms of discrimination, where needed within the framework of international cooperation.

...

457. The Committee is concerned at the poor conditions of detention of children in police or gendarmerie stations, amounting in many instances to cruel, inhuman or degrading treatment as spelled out in article 37 (a) of the Convention. In addition, the Committee is concerned at methods used by law enforcement officials which may jeopardize the life of children.

458. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, particularly in police and gendarmerie stations, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims receive compensation.

...

463. While noting that child abuse is prohibited under the Penal Code, the Committee is concerned at the incidence of abuse, including sexual abuse, and neglect of children in the State party and that insufficient efforts have been made to protect children. In addition, the Committee is concerned at the lack of statistical data and a comprehensive plan of action, as well as the insufficient infrastructure.

464. The Committee recommends that the State party:

...

- (b) Take all necessary steps to introduce the legal prohibition of the use of corporal punishment in schools and other institutions and at home;

- (c) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions to perpetrators, having due regard to guaranteeing the right to privacy of the child;

- (d) Establish an appropriate complaint procedure and inform children about this mechanism;

...

487. The Committee is concerned at the absence of juvenile courts and juvenile judges, and at the limited number of social workers and teachers working in this field. In

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addition, the Committee is deeply concerned at the possibility that children of 16 and 17 years of age are treated like adults and can be subjected to the death penalty or life imprisonment, which is a serious violation of article 37 of the Convention; the failure to separate children from adults in jails (with the exception of the jails in Ouagadougou and Bobo Dioulasso); the poor conditions of detention; the frequent recourse to and excessive length of pre-trial detention (often because of the long time needed for inquiries); the absence of a formal obligation to inform parents about the detention; the possibility for children to appeal only through their parents; the very limited possibilities for the rehabilitation and reintegration of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff.

...

489. ...[T]he Committee particularly recommends that the State party:

- (a) Ensure that persons of 16 and 17 years of age are not treated like adults and enjoy the full protection of the Convention;
 - (b) Undertake all necessary measures to ensure that juvenile courts are established and trained juvenile judges appointed in all regions of the State party;
 - (c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time, limit by law the length of pre-trial detention, and ensure that the lawfulness of this detention is reviewed by a judge without delay and regularly thereafter;
 - (d) Provide children with legal and other assistance at an early stage of the procedure;
 - (e) Amend legislation to allow children to appeal a decision without their parents;
 - (f) Provide children with basic services (e.g. schooling);
 - (g) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special prisons for children with conditions suitable to their age and needs and by ensuring the presence of social services in all detention centres in the country, and in the meantime by ensuring that they are separated from adults in all prisons and in pre-trial detention places throughout the country;
- ...
- (j) Establish an independent, child-sensitive and accessible complaint system for children;
- ...

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 496, 497, 508, 509, 527, 528, 541 and

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542.

496. The Committee welcomes the State party's adoption of a new Constitution in 1997, which embodies many of the principles of the Convention on the Rights of the Child.

497. The Committee welcomes the State party's establishment in 2000 of the Office of the Ombudsman for Children responsible for monitoring children's rights throughout Poland, and the role of the Supreme Chamber of Control in assessing and evaluating the Government's policy with regard to children's rights and the implementation of the Convention.

...

508. The Committee welcomes, as noted above, the establishment of the Office of the Ombudsman for Children and the role of the Supreme Chamber of Control. Nevertheless, it is concerned at the lack of sufficient resources for the Office of the Ombudsman for Children.

509. The Committee recommends that the State party:

(a) Strengthen the role of the Supreme Chamber of Control as an internal monitoring body for the evaluation of children's issues and establish a comprehensive system for monitoring and self-evaluation of the implementation of the Convention both at the national and local level;

(b) Provide the Ombudsman for Children with sufficient resources to enable him to fulfil his responsibilities;

(c) Collaborate with non-governmental and civil society organizations in monitoring children's rights and policies both at the national and local level.

...

527. The Committee notes the establishment of the "Blue Card" programme to address family violence, but is concerned that child abuse, and violence in the home and in schools, remain a problem in the State party and that there is no national system to receive and address complaints of child abuse and neglect. It is also concerned that victims of abuse and their families receive limited support for recovery and reintegration.

Furthermore, the Committee is concerned that corporal punishment is widely practised in the home, in schools and other institutions, such as prisons, and in alternative care contexts.

528. The Committee recommends that the State party:

(a) Establish a national system for receiving, monitoring and investigating complaints, and when necessary prosecuting cases, in a child-sensitive manner, and provide training

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for law enforcement officials, social workers and prosecutors in this regard;

(b) Set up a comprehensive and nationwide response system designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than only intervention or punishment, and which ensures that all victims of violence have access to counselling and assistance with recovery and reintegration, particularly in communities where the local administration does not have sufficient resources to set up a family crisis centre;

...

(d) Expressly prohibit corporal punishment in the home, schools, and all other institutions;

(e) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment.

...

541. While noting the increased efforts of the State party to cooperate in regional programmes to prevent trafficking and repatriate victims, the Committee is nevertheless concerned that Poland continues to be a country of origin, destination and transit for children trafficked for sexual exploitation.

542. The Committee recommends that the State party:

(a) Proceed with its intention to ratify the Worst Forms of Child Labour Convention (No. 182) of the International Labour Organization (ILO) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and develop a national plan of action on commercial sexual exploitation of children, as agreed at the first and second World Congresses against Commercial Sexual Exploitation of Children, held in Stockholm in 1996 and Yokohama, Japan, in 2001, respectively;

(b) Ensure that all persons under 18 involved in prostitution and the production of pornographic materials are not criminalized and enjoy full protection;

(c) Train law enforcement officials, social workers and prosecutors in how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner;

...

- Israel, CRC, CRC/C/121 (2002) 131 at paras. 553, 556, 567, 581, 582, 586-589, 608, 609, 612 and 613.

553. The Committee welcomes:

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...

(b) The enactment of progressive legislation, including the 2002 law on information regarding the influence of legislation on children's rights, and laws on minor victims' rights and legal assistance for children;

(c) The prohibition of corporal punishment in homes, schools and other institutions;

(d) The active involvement of civil society in the promotion and protection of human rights in the State party, including through public-interest litigation, and the many court rulings based upon the articles of the Convention;

(e) Affirmative-action programmes for education of Israeli Arabs;

(f) The various measures taken to support families in need (e.g. single-parent families).

...

566. While noting the different channels open to children for making complaints (i.e. the Open Line, the Ombudsman of the Ministry of Health, etc.), the Committee is concerned that the responses of these mechanisms are not sufficiently coordinated to ensure the effective implementation of the Convention. Moreover, the Committee is concerned at the absence of an independent mechanism with the mandate to regularly monitor and evaluate progress in the implementation of the Convention.

567. The Committee recommends that the State party:

(a) Improve coordination between the various existing complaints mechanisms to ensure that they effectively contribute to the implementation of the Convention;

(b) Consider the establishment of an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (The Paris Principles) (General Assembly resolution 48/134, annex) and the Committee's General Comment No. 2, to monitor and evaluate progress in the implementation of the Convention at the national and local levels.

This institution should be adequately resourced, 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.

...

581. The Committee deeply regrets the killing and injuring of all children in the State party committed by all actors prior to and during the present armed conflict. It is extremely concerned about the consequences of the climate of terror which seriously harms the development of children.

582. The Committee strongly urges the State party and all relevant non-State actors:

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- (a) To take immediate and all necessary measures to end the violence;
- (b) To take immediate and all necessary measures to ensure that children are not recruited and do not participate in the conflict;
- (c) To investigate immediately and effectively all killings of children and bring the perpetrators to justice;
- (d) To take all necessary measures to provide child victims of these human rights violations with possibilities for adequate compensation, recovery and social reintegration.

...

586. The Committee is seriously concerned at allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children by police officers during arrest and interrogation and in places of detention (i.e. Ma'ale Adummim, Adorayim, Beit El, Huwarra, Kedumin, Salem and Gush Etzion police station and prisons such as Terza, Ramleh, Megiddo and Telmond).

587. The Committee strongly recommends that the State party:

- (a) Establish and strictly enforce instructions for full compliance with the principles and provisions of the Convention by all persons involved in the arrest, interrogation and detention of Palestinian and other children in the State party;
- (b) Investigate effectively all cases of torture and inhuman or degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;
- (c) Pay full attention to the victims of these violations and provide them with opportunities for adequate compensation, recovery and social reintegration...

588. The Committee welcomes the many efforts of the State party to prevent and combat all forms of violence and abuse within the family, in schools and in other institutions which care for children, but is concerned at the apparently limited impact of these efforts owing to, among other things, the lack of a comprehensive strategy and adequate resources.

589. The Committee recommends that the State party:

- (a) Establish a national and comprehensive strategy to prevent and combat violence and abuse within the family, in schools and in other institutions caring for children, which should include, among other things, a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address these

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practices;

(b) Carry out public education campaigns about the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(c) Strengthen procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary;

(d) Allocate sufficient resources for the provision of care, recovery and reintegration for victims;

(e) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment.

...

608. The Committee is seriously concerned about the impact of terrorism on the rights of children in the State party, as well as the impact of military action on the rights of children in the occupied Palestinian territories. Moreover, the Committee is concerned about the insufficient cooperation of the State party in relation to demining efforts in southern Lebanon and the lack of redress available to the child victims of Israeli Defence Forces operations there.

609. The Committee recommends that the State party and other non-State actors:

(a) Establish and strictly enforce rules of engagement for military and other personnel which fully respect the rights of children as contained in the Convention and protected under international humanitarian law;

(b) Refrain from using and/or targeting children in the armed conflict and comply fully with article 38 of the Convention, and as much as possible with the Optional Protocol on the involvement of children in armed conflict;

(c) Provide full support and cooperation for demining efforts in southern Lebanon, and possibilities for adequate compensation, recovery and rehabilitation to the child victims of Israeli Defence Forces actions in southern Lebanon;

(d) Ratify and fully implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, of 1997.

...

612. The Committee is concerned about:

(a) The differential application of law concerning children, such as with respect to the

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definition of a child in Israel and in the occupied Palestinian territories;

(b) The practice relating to the arrest and interrogation of children in the occupied Palestinian territories;

(c) Military Orders Nos. 378 and 1500, as well as all other military orders which may allow prolonged incommunicado detention of children, and which do not provide due process guarantees, access to legal assistance and family visits.

613. The Committee recommends that the State party:

(a) Ensure that the provisions of the Convention, in particular articles 37, 39 and 40, are fully integrated into the legislation and practice of the system of juvenile justice, along 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 Guidelines for Action on Children in the Criminal Justice System;

(b) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(c) Ensure that children have access to legal aid and independent and effective complaint mechanisms;

(d) Train professionals in the area of rehabilitation and social recovery of children;

(e) Rescind all provisions in the military orders which violate international standards on the administration of juvenile justice.

- Estonia, CRC, CRC/C/124 (2003) 9 at paras. 52-55.

52. ...The Committee...notes that all violence against children is prohibited. However, it remains concerned that there is still insufficient information on and awareness of the ill-treatment and abuse of children within the family, in schools and in institutions, as well as of domestic violence and its impact on children...

53. The Committee recommends that the State party:

...

(d) Establish effective mechanisms and procedures for receiving, monitoring and investigating complaints, including intervention where necessary;

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(e) Investigate and prosecute instances of ill-treatment, ensuring that the abused child is not further victimized in legal proceedings and that his or her privacy is protected;

(f) Give attention to addressing and overcoming sociocultural barriers that inhibit victims from seeking assistance;

...

54. The Committee welcomes the priorities as described in the State party's report to support the family structure, but remains concerned that there is a high number of children in institutions and that:

...

(b) Conditions in institutions are poor and the system of periodic review of placement does not adequately take into account the views and best interests of the child by providing appropriate counselling and support or finding forms of alternative care;

...

55. The Committee recommends that the State party:

...

(h) Establish effective mechanisms for complaints from children in care and for monitoring standards of care and establish efficient regular periodic review of placement, taking into account the best interests of the child;

...

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 81, 95, 96, 122, 123, 132 and 133.

81. The Committee welcomes the legislation enacted to implement further the Convention on the Rights of the Child, in particular the Special Act for Punishment of Domestic Violence of 1997, which addresses investigation and reporting of cases of child abuse, and the Juvenile Protection Act of 2000, which criminalizes persons involved in the purchase of sexual services from those under 19 years of age.

...

95. The Committee welcomes, as noted in paragraph 82 above, the establishment of the National Commission on Human Rights. Nevertheless, it is concerned that the Commission has no specialization in children's rights.

96. The Committee recommends that the State party, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("The Paris Principles") (General Assembly resolution 48/134, annex) and the Committee's general comment No. 2 on national human rights institutions:

(a) Ensure that there is at least one child rights expert amongst the commissioners, or alternatively, that the Commission establish a subcommittee on children's rights;

(b) Ensure that the National Commission on Human Rights is accessible to children, in

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particular by raising awareness of its power to receive, investigate and address complaints by children in a child-sensitive manner.

...

122. The Committee welcomes the establishment of Centres for the Prevention of Child Abuse in many regions of the country that deal with reports of child abuse and neglect and provide counselling and assistance to victims. Nevertheless, it is concerned that there is no nationwide system for receiving and effectively addressing complaints of child abuse and neglect or for providing assistance to victims.

123. The Committee recommends that the State party:

(a) Take all appropriate measures, including legislative reform, to establish a national system for receiving, monitoring and investigating complaints of child abuse and neglect and, when necessary, prosecuting cases in a child-sensitive manner, and provide training for law enforcement officials, social workers and prosecutors in this regard;

(b) Strengthen its efforts to establish Centres for the Prevention of Child Abuse in order to develop a nationwide response system which is designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than solely intervention or punishment, and which ensures that all victims of violence have access to counselling and assistance with recovery and reintegration;

...

132. The Committee welcomes the enactment in 2000 of the Juvenile Protection Act, which aims to penalize those purchasing sexual services from children. However, the Committee is concerned that the Act is not being effectively implemented and that there are limited data available on the prevalence of child sexual exploitation. It is also concerned at reports of the widespread phenomenon of *Wonjokyuje* in which adolescent girls engage in a sexual relationship with older men for money.

133. The Committee recommends that the State party:

...

(b) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner;

...

- Italy, CRC, CRC/124 (2003) 36 at paras. 172, 173, 178, 179, 192 and 194.

172. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against children and at the prevalence of abuse, in particular against foreign and Roma children.

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173. In line with its previous recommendations ([CRC/C/15/Add.41], para. 20), the Committee recommends that the State party:

(a) Incorporate the crime of torture or other cruel, inhuman or degrading treatment or punishment into criminal law;

(b) Set up child-sensitive mechanisms for receiving complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and within detention centres;

...

178. The Committee welcomes the establishment of a national commission for the coordination of action regarding maltreatment, abuse and sexual exploitation of children and the adoption of a global strategy. In addition, the Committee welcomes the enactment of Act 66/96 on sexual violence and Act 154/2001 on domestic violence, but remains concerned at the lack of comprehensive data and information on child abuse and/or neglect. Moreover, the Committee is concerned at the age-limit set in the legislation regarding violence against children, as children above 14 or 16 years (depending on the relations with the perpetrator) do not enjoy the same protection.

179. In the light of article 19 of the Convention, the Committee recommends that the State party:

...

(c) Amend its legislation regarding the existing age-limit set for special protection against all forms of violence against children;

...

(e) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse, within the family through a child-sensitive inquiry and judicial procedure, in order to ensure better protection for child victims, including their right to privacy.

...

192. The Committee notes that a reform of the juvenile justice system is pending. It is concerned at the existing discrimination against children of foreign origin and Roma children within the juvenile justice system; the lack of independent structures to monitor the conditions of detention of children; and at the inadequate training of the personnel involved in the juvenile justice system.

...

194. ...[T]he Committee recommends that the State party:

...

(b) Allow periodic visits to the reception centres and penal institutes for minors by impartial and independent bodies and ensure that every child deprived of his or her liberty has access to an independent, child-sensitive and accessible complaint procedure;

...

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- Romania, CRC, CRC/124 (2003) 49 at paras. 236, 237, 240, 241, 256 and 257.

236. The Committee notes the introduction of the government programme of deinstitutionalization of children initiated in 2001 and welcomes the information that over the past two years many institutions have been closed down. Nevertheless, it remains concerned:

...

(d) That children lack effective mechanisms to which they can communicate concerns and complaints about their placement;

...

237. The Committee recommends that the State party:

...

(d) Increase the effective participation of children living in institutions;

(e) Guarantee the right to periodic review under article 25 of the Convention;

...

240. The Committee notes the recent efforts of NGOs related to prevention of child abuse and neglect, as well as the statement made by the Head of State to the special session of the General Assembly on children referring to envisaged special measures to prevent child abuse. Nevertheless, the Committee reiterates its previous concern [CRC/C/15/Add.16] at the apparent limited effectiveness of measures to raise awareness about the harmful consequences of neglect and abuse, including sexual abuse, in the family, schools and institutions, as well as to tackle these problems...

241. The Committee recommends that the State party:

...

(c) Establish effective procedures and mechanisms for receiving, monitoring and investigating cases of abuse, ill-treatment and neglect and for prosecuting offenders, ensuring that the abused child is not victimized in legal proceedings and that his or her privacy is protected;

(d) Strengthen the reporting system, through the training of teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and handling of cases of ill-treatment;

...

256. The Committee notes the establishment in 2001 of a national Task Force on Trafficking, the adoption of a national plan of action on trafficking, as well as the increased efforts of the State party to cooperate in regional programmes to prevent trafficking and assist victims. Nevertheless, the Committee is concerned that Romania continues to be a country of origin, of transit and, to a lesser extent, of destination for trafficked children, as also noted by CEDAW in June 2000 (A/55/38, paras. 308-309).

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257. The Committee recommends that the State party:

...

(b) Ensure that all persons under 18 years involved in prostitution and the production of pornographic materials are not criminalized and enjoy full protection;

(c) Train law enforcement officials, social workers and prosecutors in how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner;

...

- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 337, 338, 360, 362, 382, 383, 386 and 387.

337. The Committee welcomes the nomination of the Public Defender in 2000 and his report to the Committee. Furthermore, the Committee notes that the mandate of the Public Defender is limited to action or inaction on the part of the public sector and thus does not fully cover all implementation aspects of the Convention.

338. The Committee recommends that the State party take full account of the Committee's general comment No. 2 on the role of national human rights institutions and establish an independent body to monitor the implementation of the Convention, including the investigation of individual complaints by children in a child-sensitive manner. This may be done by broadening the mandate of the Public Defender and providing him with the necessary human and other resources, or by establishing a separate independent children's commissioner or ombudsperson.

...

360. ...[T]he Committee is concerned at the ill-treatment and abuse committed against children in the family, the school and other institutions as well as by public officials in the streets and in places of detention, particularly in the context of a form of popular justice for an alleged crime such as theft. The Committee is further concerned that certain groups of children, such as Roma, are specifically targeted, and that a very small portion of reported cases of suspicion of abuse and neglect are investigated...

...

362. The Committee recommends that the State party take action to address ill-treatment and abuse committed against children in the family, in schools, in the streets, in institutions and in places of detention through, *inter alia*:

(a) Enacting legislation to adequately protect minorities from racially motivated attacks;

(b) Ensuring that allegations of ill-treatment by the police and police misconduct are

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promptly, thoroughly and impartially investigated by an independent authority and that those responsible are identified and brought before a competent tribunal that will apply sanctions provided for by the law;

(c) Developing an effective system for the reporting and investigation of cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure, avoiding repeatedly interviewing child victims of abuse, in order to ensure better protection of child victims, including the protection of their right to privacy;

...

382. The Committee remains concerned at:

(a) Reports of increased instances of sexual abuse of children and the low rate of reporting such crimes;

...

383. The Committee recommends that the State party:

...

(b) Ensure that a confidential, accessible and child-sensitive mechanism is established to receive and effectively address individual complaints of all children, including those in the 15-18 age group;

...

386. The Committee notes the information provided in the State party's report (para. 293) related to discussions by the Recodification Commission on the non-existence of a juvenile justice system leading to treatment which may not be in conformity with the provisions and principles of the Convention, and welcomes the information provided by the delegation that a bill for juvenile justice reform will be submitted to parliament soon...

387. The Committee recommends that the State party:

...

(c) Develop child-oriented proceedings for adjudicating cases involving children in conflict with the law, including specialized training for judges as well as all other personnel;

(d) Ensure that all acts of violence by the police towards minors are ended, including through the prosecution of police officers guilty of such acts;

...

- Iceland, CRC, CRC/124 (2003) 109 at paras. 472 and 473.

472. The Committee welcomes the excellent work being undertaken by the

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Ombudsman for Children. However, it is concerned that the provision of resources by the State party is not commensurate with the Ombudsman's activities, including the increasing caseload of inquiries.

473. The Committee recommends that the State party ensure that this institution has adequate human and financial resources to enable it to effectively carry out its mandate to monitor the implementation of the Convention.

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 183, 184, 189, 190, 207, 208, 219 and 220.

183. The Committee is deeply concerned about allegations of ill-treatment by law enforcement officers against street children and children in custody in police stations and other detention centres, despite the circular of 27 December 1999 ordering prison authorities to stop the practice of caning.

184. The Committee recommends that the State party:

(a) Set up child-sensitive mechanisms to receive complaints against law enforcement officers regarding ill-treatment during arrest, questioning and police custody, and make sure that perpetrators are brought to justice;

...

189. The Committee notes the existence of the Child Care Upgrading Programme (CCUP), but is concerned, *inter alia* in light of the increasing number of AIDS orphans, that a growing number of children are being placed in institutions and that there is a lack of disaggregated data in this regard, which makes it difficult to fully assess the need for institutional care and to develop effective policies. The Committee also notes with concern the absence of an independent complaints 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.

190. The Committee recommends that the State party take all necessary measures to make institutional care a solution of last resort and to improve the quality of care, both in private and public institutions, via CCUP (registration, enforcement of quality standards).

The Committee further recommends that the State party provide additional training, including in children's rights, for social and welfare workers, undertake periodic review of placements in institutions and establish an independent complaints mechanism for children in alternative care institutions.

...

207. ...The Committee notes with concern the reported incidents of physical and sexual abuse of children within the school environment.

208. The Committee recommends that the State party:

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...

(h) Provide children with a safe school environment by, *inter alia*, taking all necessary steps to prevent abuse and exploitation of children by school personnel, taking effective disciplinary measures against school personnel who have committed those offences and encouraging the reporting of these incidences to the competent authorities, notably through child-sensitive structures for complaints;

...

219. The Committee expresses grave concern at the high and increasing number of street children. In particular, the Committee notes their limited access to health, education and other basic social services as well as their vulnerability to police brutality, sexual abuse and exploitation.

220. The Committee recommends that the State party:

...

(b) Ensure that street children are provided with preventive and rehabilitative services for physical, sexual and substance abuse, protection from police brutality and services for reconciliation with their families, and that perpetrators of violence against street children are prosecuted and punished;

...

- Sri Lanka, CRC, CRC/C/132 (2003) 48 at paras. 242 and 243.

242. The Committee welcomes the establishment of the National Human Rights Commission in 1997, which also accepts and investigates complaints regarding the violation of children's rights. However, the Committee is concerned that the Commission has insufficient human and material resources to deal effectively with its volume of work.

243. The Committee recommends that the State party, in accordance with the Committee's general comment No. 2 on national human rights institutions:

(a) Ensure that the National Human Rights Commission is provided with sufficient resources to carry out its responsibilities effectively;

(b) Consider establishing a bureau for children's rights within the Commission in order to centralize its work on children's rights;

(c) Ensure its accessibility to children, in particular by raising awareness of its power to receive, investigate and address complaints by children, in particular those affected by conflict.

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- Solomon Islands, CRC, CRC/C/132 (2003) 58 at paras. 333 and 334.

333. The Committee is deeply concerned that:

(a) The recruitment of children under the age of 18 by militias occurred during the recent armed conflict in the State party and that other cases of alleged war crimes affecting children have not been duly investigated;

...

334. The Committee recommends that the State party:

...

(c) Take all necessary measures to investigate, prosecute and punish alleged perpetrators of war crimes, especially those affecting children;

...

- Jamaica, CRC, CRC/C/132 (2003) 86 at paras. 405 and 406.

405. While noting the information that the Child Care and Protection Act will provide for the establishment of the Child Advocate, the Committee reiterates its concern about the lack of an independent body for the implementation of the Convention. The Committee is furthermore concerned at the State party's withdrawal from the first Optional Protocol to the International Covenant on Civil and Political Rights in 1998, which eliminated the right to submit individual communications for individuals under the State party's jurisdiction and which also directly affects persons under 18 years.

406. The Committee recommends that the State party:

(a) Establish an independent and effective mechanism, e.g. through the creation of the Office of the Child Advocate, in accordance with the Paris Principles and the Committee's general comment No. 2;

(b) Seek technical assistance from, among others, UNICEF and OHCHR;

(c) Consider re-accessing to the first Optional Protocol to the International Covenant on Civil and Political Rights.

- Kazakhstan, CRC, CRC/C/132 (2003) 129 at paras. 617 and 619.

617. The Committee concurs with the content of the recommendations adopted by the Committee against Torture which are relevant to the situation of children below the age

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of 18. The Committee further notes that the Head of State expressed his concern that torture and ill-treatment of suspects and detainees by law enforcement officers were becoming widespread and common practices, and welcomes the recent efforts to broaden the scope of punishment for offences committed against children. However, the Committee remains deeply concerned by continuing allegations that the torture of persons under 18, including for purposes of extorting confessions, is widespread, and that the existing procedure for investigating such allegations is ineffective and does not provide for the protection of the victims.

...

619. In light of article 37 of the Convention and the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the State party should take all necessary and effective steps to prevent incidents of ill-treatment of children. The Committee recommends that the State party provide training to law enforcement officials, in particular on how to deal with persons under 18 years; ensure that children are adequately informed of their rights when they are detained; ensure that complaint procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; and provide rehabilitative support to victims. The Committee further recommends that the State party implement the recommendations made by the Committee against Torture (A/56/44, para. 129), in particular as they relate to persons under 18 years of age.

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 58 and 59.

58. The Committee notes that the application of a considerable part of the Convention falls within the competence of the provinces and territories, and is concerned that this may lead, in some instances, to situations where the minimum standards of the Convention are not applied to all children owing to differences at the provincial and territorial level.

59. The Committee urges the Federal Government to ensure that the provinces and territories are aware of their obligations under the Convention and that the rights in the Convention have to be implemented in all the provinces and territories through legislation and policy and other appropriate measures.

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 200, 201, 206, 207, 240 and 241.

200. The Committee takes note of the recognition given to the problem of honour killings by the State party, but is nonetheless very concerned at the widespread and increasing problem of so-called honour killings, affecting children both directly and, through their mothers, indirectly. The Committee is seriously concerned that, despite

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the efforts of the State party, the police are often reluctant to arrest the perpetrators and that the latter receive lenient or token punishment.

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

...
206. Although the State party is undertaking some training of police officers and other professionals working with children to promote respect for children's rights, the Committee is deeply concerned at the numerous reports of torture, serious ill-treatment and sexual abuse of children, including children belonging to religious or other minority groups, by police officers in detention facilities and other State institutions.

207. The Committee recommends that the State party:

...
(b) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions against perpetrators, with due regard given to guaranteeing the right to privacy of the child;

...
240. In view of the fact that child sexual abuse and sexual exploitation of children are reported to be serious problems in the State party, the Committee is concerned that the State party has not addressed them effectively. The Committee is particularly concerned at:

(a) The absence of legislation clearly prohibiting child sexual abuse and sexual exploitation and the lack of a clear definition of the term in the State party, as well as the lack of legislation that clearly defines sexual consent;

(b) The absence of measures to prosecute the perpetrators;

...
241. The Committee recommends that the State party:

(a) Review its legislation in order to clearly define sexual abuse, in particular child sexual abuse and child sexual exploitation;

...
(c) Take all necessary measures to prevent and end this practice through a comprehensive strategy, notably by prosecuting perpetrators, and holding public debates and conducting awareness campaigns;

...

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- Madagascar, CRC, CRC/C/133 (2003) 56 at paras. 289 and 290.

289. The Committee is concerned at the poor conditions of detention of children and at incidents of ill-treatment by prison guards, amounting in many cases to cruel, inhuman and degrading treatment prohibited under article 37 (a) of the Convention.

290. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, to provide these children with accessible and safe procedures for filing complaints to an independent body, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims are provided with opportunities for social rehabilitation, full physical and psychological recovery and access to adequate procedures for seeking compensation...

- Singapore, CRC, CRC/C/133 (2003) 84 at paras. 419 and 420.

419. The Committee welcomes the creation of mechanisms such as the Child Abuse Protection Team and the Family Protection Unit to deal with complaints of abuse and provide assistance to victims and their families. However, the Committee is concerned that underreporting remains a problem and that social workers, teachers and medical personnel are not required by law to report suspected cases of child abuse.

420. The Committee recommends that the State party strengthen measures to encourage reporting of instances of child maltreatment and abuse, through, *inter alia*, legislative measures requiring social workers, teachers and medical personnel to report suspected cases of child abuse to the appropriate authorities.

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 473, 474, 503 and 504.

473. While taking note of the efforts by the State party to raise public awareness of the ill-treatment of children, the Committee is concerned at reports of ill-treatment and violence against children in State institutions such as orphanages and rehabilitation centres, including by law enforcement agents, as well as at the solitary confinement of juvenile and child prisoners. The Committee is also concerned at reports of violence against street children. Furthermore, the Committee expresses its deep concern at the reported inhuman and degrading punishment carried out by order of traditional village councils ("shalishes") as well as at the increasing incidents of acid attacks on women and girls.

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474. The Committee strongly recommends that the State party:

...

(c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervening where necessary, and investigate and prosecute cases of torture, neglect and ill-treatment, ensuring that the abused child is not revictimized through legal proceedings and that his or her privacy is protected;

(d) Undertake all necessary measures to prevent and punish police violence;

(e) Take all necessary effective measures to ensure the implementation of the 2002 Acid Control Act and of the 2002 Acid Control Prevention Act;

...

503. While welcoming the National Plan of Action against sexual abuse and exploitation, the Committee is deeply concerned at the prevalence of sexual exploitation of children and the social stigmatization of the victims of such exploitation, as well as at the lack of social and psychological recovery programmes and the very limited possibilities for victims to be reintegrated into society. The Committee is also concerned about the widespread practice of forcing children into prostitution.

504. The Committee recommends that the State party:

...

(b) Ensure that victims of sexual exploitation are never considered as offenders, but rather benefit from programmes for their recovery and reintegration;

(c) Investigate, prosecute and sentence perpetrators of sexual offences against children;

(d) Develop and monitor a code of conduct for law enforcement officials;

...

- Georgia, CRC, CRC/C/133 (2003) 111 at paras. 548, 549, 576 and 577.

548. The Committee welcomes the Presidential Decree approving a Plan of Action against Torture for 2003-2005 and the related plan to amend the Criminal Code with a view to strengthening the protection from torture and inhuman or degrading treatment or punishment. However, it remains concerned at the information that children are subjected to torture and other forms of violence and abuse in police stations, institutions and schools.

549. The Committee urges the State party to take all necessary measures for the expeditious and effective implementation of the Plan of Action against Torture, ensuring

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full protection of children from all forms of violence, proper interrogation, prosecution and sentencing of perpetrators, and the provision of care, recovery and compensation for all child victims.

...

576. The Committee notes that the human rights treaty bodies which considered the reports of Georgia have consistently expressed concern at the practice of trafficking in persons, in particular women, and at the lack of protection of women, including young children, from, *inter alia*, sexual exploitation and trafficking.

577. The Committee recommends that the State party:

...

(b) Increase protection provided to victims of sexual exploitation and trafficking, including prevention, social reintegration, access to health care and psychological assistance in a coordinated manner, including by enhancing cooperation with NGOs, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;

(c) Ensure that a confidential, accessible and child-sensitive mechanism is established to receive and effectively address individual complaints from all children, including those in the 15-18 years age group;

(d) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute reported cases of sexual abuse, in a child-sensitive manner;

...

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 40, 41, 61, 62, 91, 92, 99, 100, 103, 106 and 109.

40. The Committee welcomes the establishment of the Indonesian Commission for Child Protection (Komisi Perlindungan Anak Indonesia) and of the National Commission on the Elimination of the Worst Forms of Child Labour. The Committee is nonetheless concerned that the insufficient guarantees of independence and impartiality of the National Commission on Human Rights (Komnas HAM), which hinder it from carrying out its mandate fully, might also impair the work of the National Commission for Child Protection.

41. The Committee recommends that the State party, in accordance with the Committee's general comment No. 2 on national human rights institutions:

...

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(b) Ensure that the National Commission for Child Protection and the National Commission on the Elimination of the Worst Forms of Child Labour are accessible to children, in particular by giving them power to conduct investigations and to receive and address complaints by children, in particular children affected by conflict;

...

(d) Take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas HAM), the National Commission for Child Protection and the National Commission on the Elimination of the Worst Forms of Child Labour, and ensure that their reports to the Attorney-General are published in a timely fashion.

...

61. The Committee is concerned at the high number of child victims of violence, abuse and neglect, including sexual abuse, in schools, in public places, in detention centres and in the family.

62. The Committee recommends that the State party:

(a) Expand current efforts to address the problem of child abuse and neglect, including sexual abuse, and ensure that there is a national system for receiving, monitoring and investigating complaints and for prosecuting cases when necessary, in a manner which is child sensitive and ensures the victims' privacy;

(b) Ensure that all victims of violence have access to counselling and assistance with recovery and reintegration, and that children who have been removed from their homes because of allegations of abuse are provided with alternative protection and care and that institutionalization is used only as a last resort and for the shortest time possible;

(c) Ensure that perpetrators of violence against children are duly prosecuted.

...

91. The Committee urges the State party:

...

(f) To ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in military or paramilitary operations using child soldiers or children as sexual slaves, or violating any rights of the children, will be prosecuted, including those who committed abuses in East Timor in 1999.

92. The Committee recommends that the State party develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict. In particular, the Committee recommends that the State party:

...

(c) Criminalize the recruitment and use of children for military purposes by any armed force or armed group;

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...

99. The Committee welcomes the introduction of the Social Safety Net Programme for Street Children and of the Free Street Children Programme of Bandung Raya. It is nonetheless concerned at the high number of children living on the streets and at the violence to which they are subject, especially during sweep operations.

100. The Committee recommends that the State party take all necessary measures:

(a) To end the violence, arbitrary arrest and detention carried out by the State apparatus against street children;

(b) To bring to justice those responsible for such violence;

...

103. The Committee recommends that the State party:

(a) Develop and implement legislation that adequately protects child victims of sexual exploitation, including trafficking, pornography and prostitution, that includes a significant increase in the minimum age of sexual consent;

(b) Train law enforcement officials, social workers and prosecutors on how to receive, monitor and investigate complaints and prosecute perpetrators in a child-sensitive manner that respects the privacy of the victim;

...

106. The Committee recommends that the State party continue its efforts to eliminate child labour, in particular by addressing the root causes of child economic exploitation through poverty eradication and access to education, as well as by developing a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations, law enforcement personnel, labour inspectors and ILO/IPEC.

...

109. The Committee recommends that the State party:

...

(b) Establish an appropriate definition of trafficking, increase legal protection for child victims, take effective measures to strengthen law enforcement, and intensify efforts to raise awareness in communities about the sale, trafficking and abduction of children;

(c) Seek to establish bilateral and multilateral agreements with neighbouring countries to prevent the sale, trafficking and abduction of children, and facilitate their protection and safe return to their families;

- Guyana, CRC, CRC/C/137 (2004) 26 at paras. 137, 138, 152 and 153.

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137. The Committee is concerned that, as noted by the State party, societal discrimination persists against girls and vulnerable groups of children, including children living in poverty, Amerindian children and children with disabilities, and that the Constitution does not prohibit discrimination on the grounds of disability.

138. The Committee recommends that the State party increase its efforts to adopt appropriate legislation, to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.

...

152. The Committee takes note of the study conducted and the project developed in collaboration with UNICEF addressing violence and children in Guyana. The Committee is deeply concerned about the generally violent environment where Guyanese children are living and the increased reporting of ill-treatment and abuse of children, including sexual abuse. The Committee is also deeply concerned that section 67 of the Criminal Law (Offences) Act (chapter 8:01) criminalizes a girl of 16 years or older for having sexual intercourse with a relative like a grandfather or brother and makes her liable to imprisonment for a period of seven years.

153. The Committee recommends that the State party pay particular attention to child abuse and neglect in and outside the family by, *inter alia*:

(a) Abolishing, as a matter of priority, the provision mentioned above...by taking the necessary measures to prevent incest;

(b) Developing an effective reporting system with timely and adequate investigations and child-sensitive protection in order to bring perpetrators to justice;

...

- Armenia, CRC, CRC/C/137 (2004) 36 at paras. 212-219 and 238.

212. The Committee reiterates its concern about the high number of children living in institutions (including boarding schools). In particular, the Committee notes with concern the rising numbers of *de facto* orphans in the State party, due to the protracted social and economic crisis in the country where an increasing number of parents find themselves without the means to maintain their children. The Committee also restates its concern, in the light of article 25 of the Convention, about the lack of adequate and systematic review of the situation and conditions of children living in institutions.

213. The Committee urges the State party to ensure the effective implementation of the

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State Strategic Programme for the Reform of Institutions Involved in the Care and Maintenance of Children, with a view to reducing the number of children placed in institutions, improving their quality of life and facilitating their integration into society. In this regard, the Committee recommends further training of personnel in institutions and that effective mechanisms be set up to evaluate and monitor the conditions in children's institutions. The Committee encourages the State party to consider expanding the pilot project envisaged for 2004 of supporting children's return to their families or placement in foster care. It also encourages the State party to implement plans to offer one-room apartments free of charge for a period of 10 years to children discharged from children's homes.

214. The Committee notes that a set of instruments were approved by the Government in 2000 which define the conditions and standards for adoption and foster care. It also commends amendments to relevant legislation designed to give priority to domestic adoption of children and avoid adoptions from medical institutions. The Committee, however, remains concerned about the absence of established mechanisms to review, monitor and follow up placement of children.

215. The Committee recommends that the State party ensure that effective mechanisms to review, monitor and follow up adoption of children are established. In this regard, serious consideration should be given to the establishment of a central authority for adoption. The Committee also recommends that the State party ensure that the Adoption Act is in full conformity with the Convention. The adoption law should guarantee the right of the child to know his or her origin and to have access to information about the background and vital medical history of both the child and biological parents. Furthermore, the Committee encourages the State party to ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

216. While taking note that the Children's Rights Act and the Criminal Code include provisions which protect children against violence and abuse, the Committee reiterates its concern that the State party has not yet introduced legislative and other measures which specifically address the issue of violence against children. The Committee is concerned about the lack of data on cases of abuse, including sexual abuse and neglect, and ill-treatment of children, which may occur in child institutions and families, as well as information on specific programmes of systematic control of mechanisms in place to avoid institutional impunity in cases of abuse and ill-treatment. It is also concerned at the lack of complaints mechanisms to which children could have recourse and the fact that only medical professionals are responsible for reporting cases of abuse and neglect.

217. The Committee encourages the State party to adopt specific legislation and take other measures to prevent violence against children in all circumstances, including

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corporal punishment. It also recommends that the State party strengthen programmes for the recovery and reintegration of abused children and establish adequate procedures and mechanisms to receive complaints and to monitor, investigate and prosecute cases of ill-treatment. The Committee urges the State party to ensure that all people working with children, such as teachers and care personnel, are made responsible for reporting cases of abuse and neglect. The Committee recommends that the State party launch awareness-raising campaigns on the negative consequences of ill-treatment of children and promote positive, non-violent forms of discipline as an alternative to corporal punishment, especially in the family, schools and other institutions and ensure that all people working with children, including law enforcement officials, judges and health professionals, undergo training in how to identify, report and manage cases of ill-treatment.

218. While domestic legislation includes provisions on maintenance allowance, and stipulates that persistent refusal by parents to pay court-ordered maintenance payments for their children is a criminal offence, the Committee is concerned at the lack of implementation of these provisions, partly due to widespread ignorance of the law.

219. The Committee recommends that the State party:

(a) Make widely known the provisions of domestic legislation concerning maintenance allowance and assist mothers, where necessary, in undertaking legal action;

(b) Ensure that professional groups dealing with this issue are adequately trained and the courts enforce more strictly the recovery of maintenance from solvent parents who refuse to pay;

(c) Take necessary measures to ensure that financial assistance is provided to children born out of wedlock and children of single-parent families in cases where maintenance cannot be obtained from solvent parents.

...

238. The Committee recommends that the State party ensure the effective implementation of the minimum age for admission to employment, set at 16 in the Labour Code, and of other provisions prohibiting heavy and hazardous work for children under 18. Employers should be required to have and produce on request 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...

- The Netherlands (Netherlands and Aruba), CRC, CRC/C/137 (2004) 63 at paras. 371 and 372.

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371. The Committee welcomes the State party's efforts in the Netherlands to address the sexual exploitation of children, in particular, through training of the police. However, it is concerned that the "complaint requirement" by victims over the age of 12 and the "double criminality" requirement hamper the prosecution of cases of child sexual abuse committed in the Netherlands and abroad...

372. The Committee recommends that the State party:

...

(b) In the Netherlands, amend legislation to eliminate the complaint requirement and double criminality requirement for the prosecution of sexual offences against children;

(c) Strengthen the capacity of the police in the Netherlands and Aruba to receive and investigate complaints of trafficking and sexual exploitation in a child-sensitive manner, *inter alia*, by increasing human and financial resources and, where necessary, providing appropriate training;

...

- India, CRC, CRC/C/137 (2004) 75 at paras. 387, 388, 420, 421, 428, 429, 446, 447, 452 and 453.

387. The Committee welcomes the fact that the Convention can be invoked before the courts and that the Supreme Court has adopted various decisions based on the Convention; however, the Committee remains concerned that domestic legislation, and in particular religious and personal laws which govern family matters, are not yet fully in conformity with the provisions and principles of the Convention.

388. In light of its previous recommendations (CRC/C/15/Add.115, para. 11), the Committee recommends that the State party:

(a) Scrutinize carefully existing legislative and other measures, including religious and personal laws, both at the federal and state levels, with a view to ensuring that the provisions and principles of the Convention are implemented throughout the State party;

(b) Ensure the implementation of its legislation and its wide dissemination.

...

420. The Committee is concerned at numerous reports of ill-treatment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children by law enforcement officials.

421. In line with its previous recommendations (CRC/C/15/Add.115, paras. 39-41), the Committee recommends that the State party:

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...

(b) Set up child-sensitive mechanisms to receive complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and in detention centres;

(c) Investigate and prosecute complaints in a child-sensitive manner;

...

428. The Committee is concerned at the high prevalence of violence, abuse, including sexual abuse, and neglect of children within the State party, and at the lack of effective measures to combat this problem. The Committee is further concerned at outdated laws concerning sexual abuse.

429. In light of article 19 of the Convention and in line with its previous recommendations (CRC/C/15/Add.115, para. 45), the Committee recommends that the State party:

(a) Adopt new legislative measures and amend outdated legislation to prohibit all forms of physical and mental violence, including sexual abuse of children in the family, in schools and in institutions;

...

(c) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervention where necessary;

(d) Investigate and prosecute cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

...

(f) Train parents, teachers, law enforcement officials, care workers, judges, health professionals and children themselves in the identification, reporting and management of cases of ill-treatment, using a multidisciplinary and multisectoral approach; and

...

446. The Committee is concerned that the situation in areas of conflict, particularly Jammu and Kashmir and the north-eastern states, has seriously affected children, especially their right to life, survival and development (article 6 of the Convention). The Committee expresses its very serious concern at reports of children who are involved in and are victims of these conflicts.

447. In light of articles 38 and 39 of the Convention, the Committee recommends that the State party ensure respect for human rights and humanitarian law aimed at the protection, care and physical and psychosocial rehabilitation of children affected by armed conflict, notably regarding any participation in hostilities by children. The Committee calls upon the State party to ensure impartial and thorough investigations in cases of rights violations committed against children and the prompt prosecution of those

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responsible, and that it provide just and adequate reparation to the victims.

...

452. The Committee welcomes the ratification of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution; the adoption of a plan of action to combat trafficking and commercial sexual exploitation of women and children; the initiative to undertake a study, *inter alia*, to collect data on the number of children and women who become victims of sexual exploitation and trafficking; and the Pilot Projects to Combat Trafficking of Children for Commercial Sexual Exploitation in Destination and Source Areas, but remains concerned that the Immoral Traffic Prevention Act, 1986 does not define trafficking and limits its scope to sexual exploitation. In addition, the Committee expresses its concern at the increasing number of child victims of sexual exploitation, including prostitution and pornography...

453. In light of articles 34 and 35 and other related articles of the Convention, the Committee recommends that the State party:

(a) Extend the scope of the Immoral Traffic Prevention Act to all forms of trafficking of children and ensure that all trafficked children are always treated as victims;

...

(e) Ensure that perpetrators are brought to justice;

...

- Papua New Guinea, CRC, CRC/C/137 (2004) 94 at paras. 506 and 507.

506. The Committee is concerned that the problem of neglect and abuse, including sexual abuse, within the family and at school appears to be significant according, *inter alia*, to hospital records.

507. The Committee recommends that the State party set up a comprehensive and nationwide response system with the aim of providing support and assistance to all victims of domestic violence, and ensure that they have access to counselling, redress and assistance with recovery and reintegration. The Committee also recommends that the State party ensure that there is an effective mechanism for receiving, monitoring, and investigating complaints, and seek technical assistance in this regard.

- Slovenia, CRC, CRC/C/137 (2004) 104 at paras. 563, 564, 567, 568, 595 and 596.

563. While welcoming the Act amending the Guarantee and Maintenance Fund of 2002, which removed the income restriction on exercising the right to compensation of

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maintenance, the Committee is concerned that the recovery of maintenance is not sufficiently protected in law and in practice and that the administrative and court proceedings of enforcing the right to maintenance are often lengthy.

564. The Committee urges the State party to take further measures to ensure a more effective implementation of legislation on the payment of maintenance, including by ensuring more expeditious court proceedings and strict enforcement of administrative and court orders.

...

567. The Committee welcomes the information that the Police Act has been amended, allowing the police to remove an alleged perpetrator of child abuse or other forms of family violence from the home for up to 10 days and that the courts can extend this period for 30 days. The Committee, however, remains concerned that child abuse in the family and in institutions appears to be widespread. Furthermore, while noting that an Act for Prevention of Violence in the Family is in preparation, it is concerned that the existing preventive and protective measures taken to address the problem are not sufficient.

568. The Committee recommends that the State party continue and strengthen its efforts to address the problem of child abuse by, *inter alia*:

...

(b) Expediting the drafting and approval of the Act for Prevention of Violence in the Family and related changes in the family law, legislative measures which should provide for effective procedures and mechanisms to receive, monitor and investigate complaints, including intervention where necessary;

(c) Ensuring that cases of ill-treatment are investigated and prosecuted, that the abused child is not victimized in legal proceedings and that his or her privacy is protected;

(d) Providing training for parents, teachers, law enforcement officials, care workers, judges, health professionals and children themselves in the identification, reporting and management of cases of ill-treatment, using a multidisciplinary and multisectoral approach;

...

595. The Committee is concerned that children are not protected in the legislation against abuse on the Internet and that there is no legislation on sex tourism and child pornography.

596. The Committee recommends that the State party strengthen the legal protection of children against various forms of abuse on the Internet, including child pornography, and introduce legislation which would make Slovene citizens liable to criminal prosecution for child abuse committed abroad.

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- Japan, CRC, CRC/C/137 (2004) 116 at paras. 639, 640, 653 and 654.

639. The Committee welcomes the measures undertaken to improve reporting and investigation of child abuse which have had significant results. However, it is concerned that:

...

(b) The number of cases prosecuted are still quite low;

...

640. The Committee recommends that the State party:

...

(b) Review legislation with a view to improving protective measures for the victims of child abuse in the family;

...

(d) Increase the training provided to law enforcement officials, social workers, staff of Child Guidance Centres and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner.

...

653. ...[T]he Committee welcomes the adoption and implementation of the Law on Punishing Acts related to Child Prostitution and Child Pornography and on Protecting Children (1999). However, it is concerned that:

(a) The Penal Code maintains a narrow definition of rape as an act committed by a male against a female;

...

(c) There have been reports of child victims being treated as criminals;

...

654. The Committee recommends that the State party:

(a) Amend legislation on sexual exploitation and abuse to ensure equal protection for boys and girls;

...

(c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner;

...

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 57 and 58.

57. The Committee is deeply concerned about the incidence of torture and ill-treatment and the generalized disrespect for fundamental human rights in centres for juvenile

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offenders in the State party as documented by the Human Rights Procurator's Office, which has a constitutional mandate to monitor the situation of persons deprived of their liberty, in its special report of November 2003 on the conditions in centres of internment for juvenile offenders. The Committee notes with concern the inadequacy of the review procedure established under the Juvenile Offenders Act and of access to the complaint mechanisms for children whose rights have been violated. It is also concerned that the State party was not able to provide information on or give an estimate of the number of registered cases of torture and ill-treatment in such internment centres.

58. The Committee urges the State party to take immediate and effective measures to bring an end to the occurrence of torture and other cruel, inhuman and degrading treatment in internment centres, in particular of juvenile offenders. The State party must ensure that:

(a) The fundamental rights and guarantees of juveniles who have committed a criminal offence set out in the Juvenile Offenders Act are respected, in particular, the prohibition, under all circumstances, of inhuman or degrading disciplinary measures, including: corporal punishment, detention in dark cells or solitary confinement, reduction of food rations, denial of contact with relatives, collective punishment and punishment more than once for the same disciplinary offence;

(b) The monitoring of the situation in detention centres is strengthened and that a system is established to register all reported cases of torture and ill-treatment;

(c) Effective mechanisms to investigate and prosecute cases of torture and ill-treatment are created;

(d) Personnel working with juvenile offenders duly comply with the law and are properly trained and informed about their role and responsibilities;

(e) Disciplinary measures and other appropriate legal action are taken against personnel who have undertaken or authorized inhuman or degrading treatment;

(f) Preventive programmes are implemented to address the problems identified in the report of the Human Rights Procurator's Office;

(g) An integrated programme to prevent and eliminate institutional violence is implemented.

- Panama, CRC, CRC/C/140 (2004) 23 at paras. 149 and 150.

149. The Committee welcomes the efforts made by the State party to reduce child

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labour and the ratification of ILO Conventions No. 138 and No. 182. The Committee remains concerned about the high number of children involved in labour, mainly as domestic and rural workers (in sugar cane plantations), and that the State party has not adequately enforced child labour provisions.

150. The Committee recommends that the State party:

(a) Ensures the full implementation of the child labour provisions and take all necessary measures to prevent child labour, in rural as well as urban areas (child domestic workers);

...

(d) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner.

- Democratic People's Republic of Korea, CRC, CRC/C/140 (2004) 111 at paras. 524 and 525.

524. While welcoming the adoption of the Law on Complaints and Petitions in June 1998, the Committee notes with concern that, although there are many institutions that have the ability to receive complaints, this is restricted to complaints on their own mandates. Furthermore, the Committee expresses concern over their lack of independence, their limited accessibility, and that children have little or no knowledge of their existence or their functions.

525. The Committee recommends that the State party improve the existing complaints mechanisms, *inter alia*, by issuing clear guidelines that are understandable and accessible to children, and guaranteeing that filing individual complaints against any particular institution will have no negative consequences for the child. In addition, the Committee strongly recommends the State party to establish an independent and effective mechanism, taking into account the Committee's General Comment No. 2 on national human rights institutions, and in accordance with the Paris Principles (General Assembly resolution 48/134). Such an institution should monitor the implementation of the Convention, be easily accessible for children, be provided with adequate human and financial resources, and have the power 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.

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 59, 60, 73, 74, 87 and 88.

59. While the Committee notes that the right to life, survival and development is

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integrated into domestic legislation, it remains extremely concerned at the number of children murdered, as reported by the Special Rapporteur on extrajudicial, summary or arbitrary executions in Brazil in her 2004 report, which stated that the perpetrators of those crimes are mainly military policemen or former policemen (E/CN.4/2004/7/Add.3).

60. The Committee urges the State party to take, as a matter of the highest priority, all necessary measures to prevent the killing of children, to fully investigate each of those serious violations of children's rights, to bring the perpetrators to justice and to provide the family of the victims with adequate support and compensation.

...

73. The Committee is deeply concerned at the high number of children victims of violence, abuse and neglect, including sexual abuse, in schools, in institutions, in public places and in the family.

74. The Committee recommends that the State party:

...

(c) In addition to existing procedures, establish effective child-sensitive procedures and preventive mechanisms to receive, monitor and investigate complaints, including through the intervention of social and judicial authorities where necessary, to find appropriate solutions, paying due regard to the best interests of the child;

(d) Give attention to addressing and overcoming sociocultural barriers that inhibit victims from seeking assistance;

...

87. The Committee welcomes the decision of the State party's President, to make the fight against child sexual exploitation a priority of his Government. However, the Committee is deeply concerned by the wide occurrence of sexual exploitation and related issues, as also noted in the report of the Special Rapporteur on the sale of children, child prostitution, and child pornography following his mission to Brazil in 2003 (E/CN.4/2004/9/Add.2).

88. The Committee recommends that the State party:

(a) Encourage and facilitate the reporting on incidents of sexual exploitation, investigate, prosecute and impose appropriate sanctions on any perpetrator of the alleged violations;

...

(c) Follow-up on the recommendation made by the Special Rapporteur that specialized criminal courts for child victims of crimes, together with specialized units of the public prosecutor's and specialized police precincts for the protection of children and adolescents should be established.

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- Botswana, CRC, CRC/C/143 (2004) 25 at paras. 139 and 140.

139. The Committee notes with concern that there is an increasing number of children without adequate parental support due to various reasons, *inter alia*, the lack of child support by fathers.

140. The Committee recommends that the State party:

(a) Take all necessary measures to provide parents and families in particularly difficult circumstances with the necessary financial and other support as much as possible;

(b) Take the necessary legislative and other measures to ensure that the best interests of the child are of primary consideration and that guardianship with one of the parents after divorce is not automatically granted to the father;

(c) Take measures to improve the enforcement of child support by fathers, in particular of children born out of wedlock, *inter alia*, by providing mothers with information about the legal provisions in this regard and with the necessary legal or other assistance free of charge for mothers who cannot afford it, not only for initiating legal actions but also for enforcing court decisions.

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 210 and 211.

210. While welcoming amendments to the legislation on maintenance, the Committee is concerned that recovery of maintenance is not sufficiently ensured in practice and that the related administrative and court proceedings are often too lengthy.

211. The Committee recommends that the State party take further measures to ensure that legislation on the payment of maintenance is fully implemented, consider alternative measures to court procedures in this regard and ensure more expeditious court proceedings and strict enforcement of court orders. The Committee also recommends that the State party reconsider establishing a fund to provide support to parents waiting for the decision regarding the maintenance of their child.

- Kyrgyzstan, CRC, CRC/C/143 (2004) 50 at paras. 278 and 279.

278. The Committee is concerned that persons below 18 allegedly continue to be subjected to torture and cruel treatment, in many cases when in police custody or awaiting trial. Access to legal counsel and/or medical services and communication with

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their families also seems limited for young persons in police custody. The Committee is also concerned that the complaint procedures for these abuses are not child-sensitive and have not proven to be efficient as no sanctions seem to have been applied.

279. The Committee recommends that the State party:

(a) Undertake all necessary measures to prevent acts of torture and inhuman or degrading treatment or punishment, in particular through training of the police forces;

(b) Take measures to investigate, prosecute and sanction those involved in committing acts of torture and inhuman or degrading treatment or punishment against children and young persons;

...

(d) Establish programmes for the rehabilitation and reintegration of the victims.

- Equatorial Guinea, CRC, CRC/C/143 (2004) 64 at paras. 355, 356, 371 and 372.

355. The Committee notes with concern information indicating a high level of tolerance of promiscuity in families, the lack of information available on child abuse in the family and that legislation for the protection of children from sexual abuse does not expressly prohibit sexual intercourse with minors that are the offender's natural children.

356. The Committee recommends that the State party:

...

(b) Develop a national system for receiving, monitoring and investigating complaints and, when necessary, prosecuting cases in a manner that is child-sensitive and respects the victims' privacy;

(c) Reform legislation on child abuse in the family to expressly prohibit sexual abuse;

(d) Set up a comprehensive and nationwide response system that is designed to provide, where appropriate, support and assistance to both victims and perpetrators of family violence, rather than only intervention or punishment, and that ensures that all victims of violence have access to counselling and assistance with recovery and reintegration, while preventing stigmatization of victims of abuse;

...

371. The Committee is deeply concerned about the lack of a juvenile justice system in the country. In particular, the Committee is concerned about the lack of juvenile courts and about the detention of persons below 18 with adults, in very poor conditions and without access to basic services.

372. The Committee recommends that the State party...

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...

(d) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent, child-sensitive and accessible system for the receipt and processing of complaints by children;

...

- Angola, CRC, CRC/C/143 (2004) 78 at paras. 407, 408, 413 and 414.

407. The Committee expresses its deep concern at the re-emergence of the persecution of children accused of witchcraft and the very negative consequences of such accusations, including cruel, inhuman and degrading treatment, and even murder.

408. The Committee urges the State party to take immediate action to eliminate the mistreatment of children accused of witchcraft, including by prosecuting the perpetrators of this mistreatment and intensive education campaigns that involve local leaders.

...

413. The Committee is concerned about the growing number of cases of abuse and violence against children, including sexual abuse in their homes, in schools and in other institutions.

414. The Committee recommends that the State party strengthen current efforts to address the problem of child abuse, including by ensuring that:

(a) Child-sensitive mechanisms to receive and investigate complaints regarding ill-treatment and abuse are established;

...

- Antigua and Barbuda, CRC, CRC/C/143 (2004) 93 at paras. 499, 500, 516 and 517.

499. The Committee welcomes the adoption of the Sexual Offences Act of 1995 which protects the child against incest, but is concerned that the Offences Against the Person Act protects only girl children from rape and not boys, and that there are no local laws that specifically deal with the issue of protecting children against psychological violence.

The Committee is further concerned that there are no officially designated places of safety for child victims of abuse where they can stay until their cases are heard by a magistrate, and that in practice, children are usually held at the police station, which is a cause of serious alarm. The Committee also expresses concern about the lack of adequate complaint filing mechanisms for child victims of abuse and neglect. The Committee is also concerned that prosecution for child abuse and neglect may be

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impeded as a result of major infrastructural problems in the legal system.

500. The Committee recommends that the State party take the necessary measures to prevent child abuse and neglect by, *inter alia*:

...

(b) Introducing legislation making it mandatory for all professionals working for and with children to report suspected cases of abuse and neglect, and train them in the identification, reporting and management of ill-treatment cases;

(c) In addition to existing procedures, establishing effective mechanisms to receive, monitor and investigate complaints in a child-sensitive manner and ensuring proper prosecution of perpetrators of child abuse and neglect;

...

516. The Committee is concerned that the Sexual Offences Act of 1995 does not afford the same protection to boys as it does to girls. The Committee is also concerned at the low rate of prosecutions of those who sexually exploit children and that there is little in the way of public campaigns to educate the population about the laws governing sexual exploitation. The Committee notes that sexual exploitation of children should be a particular and growing concern for the State party, given its heavy reliance on commercial tourism.

517. The Committee recommends that the State party:

(a) Take appropriate legislative measures and ensure protection from sexual abuse and exploitation for boys and girls under 18 years;

...

(d) Avoid criminalizing child victims of sexual exploitation and ensure proper prosecution of perpetrators;...

...

- Sweden, CRC, CRC/C/146 (2005) 8 at paras. 67 and 68.

67. The Committee notes with appreciation that, following the First World Congress against Commercial Sexual Exploitation of Children, held in Stockholm in 1996, a National Plan of Action was adopted to protect children against sexual abuse and ill-treatment, which was brought up to date in 2001 for the Second World Congress, held in Yokohama, Japan. It also welcomes the proposed revisions to the Criminal Code regarding sexual offences, which, if adopted, will improve the protection of children against sexual exploitation. However, the Committee is concerned at:

...

(c) The little protection provided by Swedish legislation, due in part to the subjective

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and incomplete definition of the child under the Penal Code concerning child pornography.

68. The Committee recommends that the State party:

...

(c) Strengthen the legislation against possession and production of child pornography, including by prohibiting the display of child pornography on the Internet by service providers, and by revising the definition of the child in the Penal Code concerning child pornography, setting a clear objective age limit at 18 years;

(d) Strengthen the legislation allowing the prosecution of Swedish citizens involved in sexual exploitation of children abroad, including by prohibiting the reissuance of passports for persons freed after posting bail;

...

- Albania, CRC, CRC/C/146 (2005) 19 at paras. 115, 116, 123, 124, 145 and 146.

115. The Committee notes article 25 of the Constitution and the general provisions of the Criminal Procedure Code, according to which torture and degrading treatment or punishment are prohibited. However, the Committee regrets the lack of relevant practical information in the report, and is concerned about allegations of ill-treatment and improper use of force, in particular against children, both by public officials and the police in pre-trial detention centres, in prisons and in other institutions in which children are in the care of the State. Furthermore, the Committee is concerned that these allegations have not been investigated promptly by an independent authority.

116. In light of article 37 (a) of the Convention the State party should take all necessary and effective steps to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence. The Committee further urges the State party to undertake adequate measures to ensure that an effective system is set up for filing complaints about acts of ill-treatment and that such acts receive an appropriate response through the judicial process, in order to avoid impunity for the perpetrators.

...

123. The Committee is concerned that “maltreatment” is one of the most acute problems in the Albanian society, as noted by the State party. The Committee notes that domestic violence remains underreported but is common, as are other forms of ill-treatment and abuse, including sexual abuse. Concern is also expressed at the insufficient resources, including lack of adequately trained personnel, to prevent and combat such abuses.

124. The Committee recommends that the State party:

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...

(c) Ensure that a referral system is set-up, that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, are properly investigated within a child-friendly judicial procedure, and that sanctions are applied to perpetrators, giving due regard to protecting the child's right to privacy;

...

145. The Committee notes the concerns expressed by the State party at the extent of the problem of sexual exploitation of children in Albania. It also welcomes the measures taken by the State party to combat trafficking in children, such as the establishment of an anti-trafficking centre in Vlora. However, the Committee notes with concern that the sale of children is not criminalized in domestic legislation, that children reportedly continue to be trafficked, in particular to Italy and Greece, and considers that additional efforts must be vigorously pursued to combat this persistent phenomenon.

146. The Committee recommends that the State party:

(a) Considerably strengthen its efforts to reduce and prevent the occurrence of sexual exploitation, sale of children and trafficking, including by amending legislation and sensitizing professionals and the general public to the problems of sexual abuse of children and trafficking through education, including media campaigns;

(b) Strengthen existing cooperation with the authorities of countries from or to which children are trafficked in order to combat the phenomenon and harmonize legislation in this respect;

(c) Increase protection provided to victims of sexual exploitation and trafficking, including prevention, witness protection, social reintegration, access to health care and psychological assistance in a coordinated manner, including by enhancing cooperation with NGOs. In this respect, account should be taken of the Declaration and Agenda for Action and the Global Commitment adopted at the First and Second World Congresses against Commercial Sexual Exploitation of Children, held in 1996 and 2001 respectively;

(d) Ensure that a confidential, accessible and child-sensitive mechanism is established to receive and effectively address individual complaints of all children, including those in the 14-18 years age group;

(e) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner;

...

- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 159, 196 and 197.

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159. The Committee notes with appreciation:

...

(d) The following legislative measures:

(i) Act of 24 April 2000 introducing the crime of torture in the Criminal Code;

(ii) Act of 18 March 2000, establishing a regime of temporary protection for asylum-seekers;

...

(v) Act of 31 May 1999 introducing, *inter alia*, a new article 384 of the Criminal Code expressly punishing child pornography and providing for the confiscation of all related items;

...

196. The Committee is concerned at the number of reported cases of sexual abuse of children.

197. ...The Committee...recommends that the State party strengthen measures to address ill-treatment of children within the family and to ensure the prevention, timely reporting and prosecution of instances of child abuse.

- Austria, CRC, CRC/C/146 (2005) 47 at paras. 259, 260, 265 and 266.

259. The Committee welcomes the various amendments to the criminal law and criminal procedure on sexual abuse and violence in the family. However, the Committee is concerned about the effectiveness of law enforcement and the recovery of child victims.

260. The Committee recommends that the State party:

(a) Provide for the training of the personnel involved, both in the prosecution process and in the recovery process;

(b) Provide programmes for the modification of attitudes and behaviour of abusers and perpetrators;

(c) Improve the recovery programmes for child victims;

(d) Make an attempt to have a one-stop service where multidisciplinary and intersectoral services are provided.

...

265. While welcoming the legal measures to prohibit and prosecute cases of female

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genital mutilation, the Committee is concerned that this practice involving girls and young women in the context of immigrant communities still occurs in Austria and abroad where certain children are taken to perform the procedure and brought back.

266. The Committee recommends that the State party strengthen its efforts to prevent and eliminate this practice by conducting well-targeted and appropriate educational campaigns in the context of religious communities and by considering the possibility of making punishable by law the acts of those involved in the performance of female genital mutilation outside Austria.

- Belize, CRC, CRC/C/146 (2005) 59 at paras. 336, 337, 340 and 341.

336. The Committee is concerned that recovery of maintenance is not sufficiently ensured in practice. It is concerned at the actual implementation and, in some cases, the absence of bilateral agreements for reciprocal enforcement of maintenance orders. The Committee also notes with concern that children of unmarried parents do not have equal right to maintenance as those of married parents.

337. In the light of article 27, paragraph 4, of the Convention, the Committee recommends that the State party take further measures to ensure the full implementation of legislation on the payment of maintenance as well as to ensure equal right to the recovery of maintenance for all children, irrespective of their parent's marital status. The Committee also recommends that the State party effectively implement and conclude bilateral agreements for reciprocal enforcement of maintenance orders and reconsider establishing a fund to provide support to parents waiting for the decision regarding the maintenance of their child.

...

340. While noting the State party's efforts to combat violence against children and child abuse, including through the Families and Children (Child Abuse) (Reporting) Regulations, the Committee remains gravely concerned at the generally violent environment in which Belizean children are living and at the growing number of cases of murders, abductions, violence in the streets, domestic violence and sexual abuse of minors, especially girls.

341. The Committee recommends that the State party take all necessary measures:

- (a) To effectively implement the Families and Children (Child Abuse) (Reporting) Regulations and conduct timely and adequate investigations of cases of child abuse and violence in order to bring perpetrators to justice;
- (b) To introduce awareness-raising campaigns, with the involvement of children

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themselves, in order to prevent all forms of violence against children and to combat child abuse, including sexual child abuse, and to change public attitudes and prevailing cultural practices in this respect;

(c) To ensure due adherence to all relevant protocols, policies and procedures regarding the management of child abuse cases;

(d) To ensure that child victims of violence and abuse have access to “one-stop service” and adequate counselling and multidisciplinary assistance with recovery and reintegration.

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

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

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

- Togo, CRC, CRC/C/146 (2005) 104 at paras. 583-586.

583. While noting the efforts made by the State party to prevent and combat sexual exploitation of children, the Committee is concerned that:

...

(b) Existing legislation intended to protect children from sexual exploitation and prostitution is neither sufficient nor effective;

(c) Child victims of sexual exploitation often do not receive adequate protection and/or recovery assistance.

584. The Committee recommends that the State party:

...

(b) Enact a law providing adequate protection to children victims of sexual exploitation, including trafficking, child pornography and prostitution;

(c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases, in a child-sensitive manner that protects the

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child victims and respects their privacy;

(d) Prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims, and ensure that victims who cannot return to their families are not institutionalized.

585. The Committee welcomes the adoption of the National Plan of Action on the fight against child trafficking for commercial exploitation and labour in 2001 as well as the establishment of the *Comités de vigilance*. However, the Committee is concerned that the Plan of Action did not sufficiently involve civil society and is not efficiently implemented. It is further concerned that trafficking of children is not a separate offence under the law, despite the prevalence of the phenomenon. The Committee is further concerned at the lack of measures taken to combat and protect children from sale, trafficking and abduction.

586. The Committee recommends that the State party:

(a) Establish trafficking of children as a separate offence;

...

(c) Ensure effective programmes for child protection, prosecution of offenders, repatriation, recovery and preventive programmes for victims;

(d) Take effective measures to strengthen law enforcement, including immigration laws, intensify efforts to raise awareness among communities of the sale, trafficking and abduction of children, and prosecute the perpetrators;

...

(f) Continue its efforts to establish bilateral and multilateral agreements with neighbouring countries to prevent the sale, trafficking and abduction of children, to facilitate their protection and safe return to their families and to implement reintegration programmes for the victims.

- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 626, 627, 634, 635 and 650-653.

626. The Committee is concerned at reported cases of police brutality against children in the State party.

627. The Committee recommends that the State party adopt measures to prevent and eliminate all kinds of institutional violence. It also recommends that the State party ensure that alleged cases of police brutality against children are duly investigated and that those responsible for such crimes are prosecuted.

...

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634. The Committee welcomes measures taken to strengthen the protection of the rights of adopted children. However, the Committee is concerned about the limited understanding and acceptance in the State party that domestic adoptions are more desirable than intercountry adoptions, the lack of mechanisms to prepare prospective adoptive parents, and the lack of mechanisms to follow up and monitor the situation of adopted children and children placed in foster care. The Committee is also deeply concerned about the continuing occurrence of illegal adoptions.

635. The Committee recommends that the State party develop and implement a comprehensive adoption policy and raise awareness of the importance of domestic adoption. As stipulated in article 21 (b) of the Convention, intercountry adoption should be considered an alternative means of childcare only if an adoptive family or foster care placement cannot be found within the country. Effective mechanisms to review, monitor and follow up adoption of children should be established. The Committee urges the State party to strengthen its efforts to prevent illegal adoptions and to ensure that its legislation and practice on national and international adoptions is brought into line with article 21 of the Convention and the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, respectively.

The central authorities should be provided with adequate resources to regulate and monitor the activities of international adoption agencies in the State party.

...

650. The Committee notes with concern the lack of specific procedures for providing special care and assistance to children, in particular unaccompanied minors and separated children, under the refugee determination system.

651. The Committee recommends that the State party establish a fully functioning and comprehensive refugee status determination mechanism, ensuring full respect for the principle of *non-refoulement*, and, in particular, introduce specific procedures for the treatment of unaccompanied and separated minors.

652. While welcoming the measures taken by the State party to combat the worst forms of child labour, including through cooperation with ILO-IPEC, the Committee expresses its deep concern at the widespread occurrence of child labour in the State party and at the absence of rights-based policies to protect the rights of children and adolescents involved in child labour. The Committee is particularly concerned about the large number of child domestic workers, who are vulnerable to abuse, and about children working in mines, on sugar cane plantations and in other hazardous conditions.

653. The Committee urges the State to strengthen measures to combat child labour. It recommends, in this regard, that the State party formulate, in a participatory manner, a strategy and plan of action to eliminate the worst forms of child labour as well as to safeguard the rights of working children. The Committee also recommends that the

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State party strengthen the labour inspectorate to ensure the effective implementation of child labour laws, including the prohibition against employing children under the age of 18 in harmful or hazardous work. The State party is encouraged to give priority to children working in the sugar cane and mining industries and to child domestic workers, with special attention to the rights of the girl child, and to continue to seek assistance from ILO-IPEC in this respect.

- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 706 and 707.

706. In view of the information that cases of abandoned children are common and that the number of HIV/AIDS orphans is rapidly increasing, the Committee is concerned that the State party does not have a comprehensive and well-resourced policy programme in place for the protection of orphans, and that current facilities available for the alternative care of children deprived of their family environment are qualitatively and quantitatively insufficient and many children do not have access to such assistance. In addition, the Committee expresses concern at the lack of appropriate training of staff and of a clear policy regarding the review of placements of children in alternative care. In addition, the Committee is concerned that children themselves are not heard prior to and during their placement.

707. The Committee recommends that the State party:

- (a) Urgently adopt a programme to strengthen and increase alternative care opportunities for children including, *inter alia*, introduction of effective legislation, reinforcement of existing structures like the extended family, improved training of staff and allocation of increased resources to relevant bodies;
- (b) Establish standards and procedures, guaranteed in legislation, for alternative care, including in the areas of health, education and safety and in accordance with the principles and provisions of the Convention;
- (c) Systematize the hearing of the views of the child concerning his/her placement;
- (d) Provide for regular periodic review of the placement of children in institutions;
- (e) Ratify the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption;
- (f) Seek assistance from UNICEF in this regard.

- Saint Lucia, CRC, CRC/C/150 (2005) 10 at paras. 74 and 75.

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74. The Committee is encouraged that a draft protocol for the management of child abuse and neglect in Saint Lucia has been drawn up to deal with the identification, reporting, treatment and management of abuse and neglect cases; however, it remains concerned that this protocol has not yet been enacted and subsequent safeguards and complaint procedures have not been structured and fully implemented. The Committee is also concerned about the lack of training programmes for professionals who work with children on situations of abuse, neglect and inadequate personnel.

75. The Committee recommends that the State party adopt and implement as a matter of priority the draft protocol mentioned in order to ensure:

(a) The establishment of an effective reporting and referral system for cases of child abuse and neglect with the necessary provisions for a child-sensitive investigations of such cases;

(b) The establishment of programmes for psychological and physical recovery and social reintegration for victims of sexual abuse and any other child victims of abuse, neglect, ill-treatment, violence or exploitation;

(c) That recruitment and training programmes are ongoing for all professionals who may have to deal with the investigation and treatments of cases of child abuse and neglect; and

(d) Consider seeking technical assistance from, *inter alia*, UNICEF.

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 141, 142, 181, 188 and 190.

141. The Committee notes that the Constitution of the Philippines prohibits torture and that the provisions of the Child and Youth Welfare Code (Presidential Decree No. 603) provide protection for children against torture and ill-treatment and that all hospitals, clinics, related institutions and private physicians are obliged to report in writing all cases of torture and ill-treatment of children. Nevertheless, the Committee is deeply concerned at a number of reported cases of torture, inhuman and degrading treatment of children, particularly for children in detention. The Committee reiterates its previous recommendation on prohibiting and criminalizing torture by law and it is of the view that existing legislation does not provide children with an adequate level of protection against torture and ill-treatment.

142. As regards torture and other cruel, inhuman or degrading treatment or punishment, the Committee urges the State party to review its legislation in order to provide children with better protection against torture and ill-treatment in the home and in all public and

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private institutions and to criminalize torture by law. The Committee recommends that the State party investigate and prosecute all cases of torture and ill-treatment of children, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected. The State party should ensure that child victims are provided with appropriate services for care, recovery and reintegration. The Committee recommends that the State party continue its efforts in training professionals working with and for children, including teachers, law enforcement officials, care providers, judges and health personnel in the identification, reporting and management of cases of ill-treatment.

...

181. The Committee...recommends that the State party pay particular attention to the implementation of guidelines for Philippine Armed Forces on the treatment of children in armed conflict and ensure that children who are arrested are released from military custody within the prescribed time limits and that children are provided with adequate medical treatment and informed about their rights. As regards displaced children and children living in conflict areas, the Committee urges the State party to take effective measures to secure their access to basic services, including adequate social and health services and education and development...

...

188. The Committee expresses its grave concern about the sexual exploitation of children, including growing child prostitution, and the reported cases of child pornography in the State party. The Committee notes with concern that the provisions of the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act are mainly related to child prostitution and do not adequately protect victims of other forms of sexual exploitation. Furthermore, the Committee notes with concern that the minimum age of sexual consent is not clearly enough established in the State party's domestic legislation and that the Revised Penal Code (Republic Act No. 3815) imposes maximum penalties for sexual offences when the victim is under 12 years of age but imposes lower penalties for sexual offences against minors over 12 years of age.

...

190. The Committee urges the State party to:

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

(b) Set a clearly defined minimum age of sexual consent at an internationally acceptable level in its domestic law;

...

(d) Provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children in accordance with the Declaration and Agenda for Action and

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the Global Commitment adopted at the First and Second World Congresses against Commercial Sexual Exploitation of Children;

(e) Pay particular attention to existing risk factors, such as the growing sex tourism in the region and continue to collaborate with the Department of Tourism and tourism service providers in this respect;

(f) Launch awareness-raising campaigns for children, parents and other caregivers, in order to prevent trafficking, sexual exploitation and pornography involving children, and sensitize officials working with and for victims of trafficking.

- Bosnia and Herzegovina, CRC, CRC/C/150 (2005) 49 at paras. 273 and 274.

273. The Committee is...concerned at reports that, at the local level, police officers are believed to be often acquiescent, if not actively involved, in trafficking-related activities.

274. The Committee recommends that thorough, independent and effective investigations be carried out regarding the allegations that police officers may be involved in trafficking-related activities and to impose on them - if found guilty - appropriate penal and/or other sanctions.

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 336-338.

336. While noting that the Children's Act prohibits any cruel treatment of children by parents, guardians or teachers, the Committee is alarmed by the prevalence of child abuse and domestic violence in the State party and is of the view that the domestic legislation currently in place in the State party does not afford adequate protection to children and women against abuse and domestic violence. In particular, the Committee notes that the Children's Act which protects children from cruel treatment does not provide for an effective remedy mechanism, and that violation of the Act is not considered as a State crime and thus only provides remedy under civil court procedures. The Committee further regrets that the Domestic Violence Control Bill which was passed in April 2002 by the Parliament before it was dissolved, was never enacted. The Committee is concerned that insufficient awareness exists in the State party, of violence against women and children as a crime punishable by law, including among law enforcement officials.

337. The Committee, while noting that the Children's Act also provides for inspection of care provided in children's homes, rehabilitation centres and orphanages, is concerned about the lack of appropriate complaint filing mechanisms and of designated places of safety for child victims of abuse and neglect. The Committee is also concerned that

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prosecution against child abuse and neglect may be impeded as a result of major infrastructural problems in the legal system.

338. The Committee recommends the State party to take the necessary measures to prevent child abuse and neglect, by, *inter alia*:

...

(b) Introducing legislation making reporting obligations mandatory for suspected cases of abuse and neglect for all professionals working for and with children, and training them in the identification, reporting and management of cases of ill-treatment;

(c) Carrying out public education campaigns that raise awareness of the consequences of ill-treatment of children and the alternative measures of discipline for children, addressing sociocultural barriers that inhibit victims from seeking assistance;

(d) Establishing effective mechanisms for receiving, monitoring and investigating complaints in a child-sensitive manner and ensuring proper prosecution of perpetrators of child abuse and neglect, as well as instituting appropriate witness and victim protection systems;

(e) Providing services for the physical and psychological recovery and social reintegration of victims of sexual abuse and any other child victims of abuse, neglect, ill-treatment, violence or exploitation, and taking appropriate measures to prevent the criminalization and stigmatization of victims, including through cooperation with NGOs;

(f) Seeking technical assistance from, *inter alia*, UNICEF and WHO.

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 626, 627, 654, 655, 660 and 661.

626. While the Committee notes with appreciation that strengthening the family is an important strategy within the national policy for the comprehensive care of children and adolescents, it is concerned that insufficient financial and other resources have been provided for the implementation of this strategy. Furthermore, while noting that various legislative initiatives are currently under debate in this respect, the Committee is concerned at the lack of an appropriate and comprehensive regulation of family relations, e.g. via a comprehensive Code, as well as at the lack of specialized family courts.

627. The Committee recommends that the State party:

(a) Promote and support responsible parenthood, *inter alia* by providing families with financial allowances when needed;

...

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(c) Establish specialized family courts with trained judges and other professionals involved, and ensure that family law practice is accessible to everybody and that family law procedures are conducted without undue delay.

...

654. The Committee is...concerned that the National Commission for the Eradication of Child Labour and the Protection of Young Workers (CNEPTI), which is the coordinating body between the Government, the NGOs and the organizations of employers and workers, lack the necessary financial resources for carrying out its monitoring activities for the eradication of child labour.

655. The Committee recommends that the State party take all feasible measures - including by providing CNEPTI with the necessary financial and human resources - in order to enable it to carry out its important functions.

...

660. While welcoming the measures taken by the State party to combat and raise awareness about the problem of sexual exploitation and trafficking in persons, the Committee is concerned at the information that a consistent number of children are victims of sexual violence, pornography, paid sexual activity and sexual tourism in Nicaragua and that sexual abuse and exploitation in its various forms, including trafficking, pornography and sexual tourism, have not been classified yet as crimes in the Penal Code.

661. The Committee recommends that the State party:

(a) Rapidly adopt the proposed new Nicaraguan Penal Code, which classifies sexual exploitation as a crime in its various forms;

...

(d) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints, in a child-sensitive manner that respects the privacy of the victim;

(e) Seek technical assistance from among others, UNICEF and the International Labour Organization (ILO).

- Norway, CRC (Optional Protocol - Sale of Children, Prostitution, Pornography), CRC/C/150 (2005) 177 at paras. 826 and 827.

826. The Committee notes with appreciation the adoption by the State party, on 4 July 2003, of a revised provision on human trafficking in the Penal Code (sect. 224), which aims at preventing, suppressing and punishing trafficking in persons, especially women and children. The Committee also takes note of the provisions of section 204 of the

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Penal Code which sets penalties for involvement in child pornography, defined as moving or non-moving pictures of a sexual nature involving the use of children. The Committee is concerned that the offences contained in the legislation of the State party do not cover all the acts mentioned in article 3 (1) (c) of the Optional Protocol, that is, the acts of “producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography”.

827. The Committee recommends that the State party ensure that all children under the age of 18 are protected under the Penal Code and that this protection cover all acts and activities related to “producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography”. Furthermore, the Committee encourages the State party to separate child pornography from the general provision of pornography, in line with the recommendations of the Parliament.