

## **EFFECTIVE REMEDIES - IMPUNITY**

### **III. CONCLUDING OBSERVATIONS**

#### **CERD**

- Chad, CERD, A/49/18 (1994) 85 at para. 560.

Concern is expressed regarding the impunity enjoyed by perpetrators of human rights violations who, despite the Government's promises, have still not been prosecuted by the authorities.

- Peru, CERD, A/50/18 (1995) 41 at para. 201.

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

- Yugoslavia (Serbia and Montenegro), CERD, A/50/18 (1995) 48 at paras. 239 and 241.

#### *Paragraph 239*

Note is taken with profound concern of the large part which the media continue to play in the propagation of racial and ethnic hatred. Given the very tight State control over the media this propagation of hatred may be attributed to the State. It is further noted that the State party fails to take adequate action to either prosecute perpetrators of such acts or to attempt to redress injustices. It also fails to take action to counter the propagation of prejudice against non-Serbians through education of the population in tolerance.

#### *Paragraph 241*

The unwillingness of the State party to recognize the jurisdiction of the International Criminal Tribunal for the former Yugoslavia is deplored and extreme concern is expressed with regard to the apparent policy of the Government to purport to bestow impunity on perpetrators of fundamental violations of international human rights and humanitarian law.

- Guatemala, CERD, A/50/18 (1995) 58 at para. 309.

The lack of awareness of members of indigenous communities about recourse procedures, the

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shortage of practical facilities for them to use their own language in court procedures and the weaknesses of the judicial system are also regretted, as is the resulting relative impunity for perpetrators of such violations.

- Nigeria, CERD, A/50/18 (1995) 101 at para. 632.

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

- Colombia, CERD, A/51/18 (1996) 15 at para. 54.

Particular attention should be paid to the problem of unlawful orders in the military, police and law enforcement agencies. Instances of unlawful orders being issued and carried out should be investigated and those found to have committed illegal actions should be punished. Impunity should be eliminated. These matters should also be covered in the training programmes of the agencies mentioned.

- India, CERD, A/51/18 (1996) 51 at para. 361.

Although constitutional provisions and legal texts exist to abolish untouchability and to protect the members of the scheduled castes and tribes, and although social and educational policies have been adopted to improve the situation of members of scheduled castes and tribes and to protect them from abuses, widespread discrimination against them and the relative impunity of those who abuse them point to the limited effect of these measures. Particular concern is expressed at reports that people belonging to the scheduled castes and tribes are often prevented from using public wells or from entering cafés or restaurants and that their children are sometimes separated from other children in schools, in violation of article 5 (f) of the Convention.

- Guatemala, CERD, A/52/18 (1997) 14 at paras. 80 and 90.

### *Paragraph 80*

Concern is expressed that officials of the State party continue to enjoy impunity from criminal prosecution for abusing and violating the human rights of poor people, especially indigenous people and women. This has led people to take the law into their own hands and has resulted in a significant number of lynchings, a situation which reflects the despair and lack of confidence of the population in the effective exercise of justice.

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### *Paragraph 90*

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

- Burundi, CERD, A/52/18 (1997) 73 at paras. 574 and 584.

### *Paragraph 574*

Concern is expressed over reports of delays in the process of prosecuting those responsible for the assassination of President Ndadaye, and over the slow process of prosecuting and punishing perpetrators of mass killings and disappearances. The delays cast doubts on the effective implementation of the Government's policy of ending the pattern of impunity.

### *Paragraph 584*

The State party should increase efforts to bring to an end the impunity of the perpetrators of human rights violations and to accelerate the procedures currently under way. The need for the investigation, prosecution and punishment of those found guilty of such crimes is emphasized, in order to restore confidence in the rule of law and as an indication that their recurrence will not be tolerated by the authorities.

- Yugoslavia, CERD, A/53/18 (1998) 45 at para. 202.

Concern is expressed at persisting violations in Kosovo and Metohija of basic human rights standards, including article 5 (a) and (b) of the Convention, requiring that arrested persons be brought promptly before a judge, and prohibiting torture and ill-treatment of persons in detention or in the course of demonstrations. Equal concern is expressed about the impunity that perpetrators of such violations seem to enjoy.

- Cambodia, CERD, A/53/18 (1998) 55 at paras. 286 and 294.

### *Paragraph 286*

Concern is expressed over the lack of independence of the judiciary, as well as the impunity of perpetrators of human rights violations, violations which in some cases include summary executions and torture. This contributes to the serious undermining of efforts to establish the rule of law, without which the full implementation of the Convention is not possible.

### *Paragraph 294*

The State party should take all appropriate steps, including legal measures, to ensure the

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independence of the judiciary and to establish the Constitutional Council, with a view to bringing an end to the impunity of perpetrators of racial discrimination. The need to investigate, prosecute and punish those found guilty of such crimes, and to establish confidence in the rule of law is emphasized.

- Haiti, CERD, A/54/18 (1999) 28 at para. 261.

Concern is expressed about reports of human rights violations committed by members of the Haitian National Police and that too little is done to prevent persons perpetrating, with impunity, acts of violence related to racial discrimination.

- Colombia, CERD, A/54/18 (1999) 44 at para. 464.

Concern is expressed that the climate of impunity may severely impact the rights of indigenous and Afro-Colombian communities, as these minority communities are subjected disproportionately to violations of international human rights and humanitarian norms.

- Rwanda, CERD, A/55/18 (2000) 31 at paras. 141 and 144.

### *Paragraph 141*

The State party's efforts to prevent impunity for perpetrators of genocide and other human rights violations and to bring those most responsible for such acts to justice are also noted. The State party's efforts to rehabilitate the judicial system is encouraging, including the training of judicial and law-enforcement officials.

### *Paragraph 144*

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

## **ICCPR**

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- Colombia, ICCPR, A/47/40 (1992) 83 at paras. 393 and 394.

### *Paragraph 393*

Concern is expressed at the ongoing violence, causing a rate of homicide, disappearances and torture which, although decreasing, is unacceptable. The murders of sectors of the population in so-called social cleansing operations ("*limpieza social*") are of special concern. Moreover, the phenomenon of impunity for police, security and military personnel is also of concern. In that connection, the measures that have been taken do not seem to be sufficient to guarantee that all members of the armed forces who abuse their power and violate citizens' rights will be brought to trial and punished. Military courts do not seem to be the most appropriate ones for the protection of citizens' rights in a context where the military itself has violated such rights.

### *Paragraph 394*

The State party should intensify its action against all violence resulting in human rights violations. It should eliminate impunity; strengthen safeguards for individuals *vis-à-vis* the armed forces; limit the competence of the military courts to internal issues of discipline and similar matters so that violations of citizens' rights will fall under the competence of ordinary courts of law; and disband all paramilitary groups.

- Senegal, ICCPR, A/48/40 vol. I (1993) 23 at paras. 103 and 112.

### *Paragraph 103*

The lack of investigation into allegations of extrajudicial executions and torture by members of the army or police is of concern. Particular concern is expressed over the danger that the amnesty laws might be used to grant impunity to officials responsible for violations, who have to be brought to justice.

### *Paragraph 112*

The passiveness of the Government in conducting timely investigations of reported cases of ill-treatment of detainees, torture and extrajudicial executions is not consistent with the provisions of articles 7 and 9 of the Covenant. To achieve full compliance with article 4 of the Covenant, greater efforts are also needed to ensure the proper protection of human rights under a state of emergency. Amnesty should not be used as a means to ensure the impunity of State officials responsible for violations of human rights. All such violations, especially torture, extrajudicial executions and ill-treatment of detainees should be investigated and those responsible for them tried and punished.

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

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

- Uruguay, ICCPR, A/48/40 vol. I (1993) 102 at para. 502.

Once again deep concern is expressed about the implications for the Covenant of the Expiry Law. In this regard, the obligation of States parties, under article 2, paragraph 3, of the Covenant, to ensure that all persons whose rights or freedoms have been violated shall have an effective remedy as provided through recourse to the competent judicial, administrative, legislative or other authority is emphasized. It is noted with deep concern that the adoption of the Law effectively excludes in a number of cases the possibility of investigation into past human rights abuses and thereby prevents the State party from discharging its responsibility to provide effective remedies to the victims of those abuses. It is of particular concern that the adoption of the Law has impeded follow-up on its Views on communications. Additionally, it is of concern that in adopting the Law, the State party has contributed to an atmosphere of impunity which may undermine the democratic order and give rise to further grave human rights violations. This is especially distressing given the serious nature of the human rights abuses in question.

- Romania, ICCPR, A/49/40 vol. I (1994) 28 at para. 141.

Concern is expressed over abuses committed by the police, such as forcible entry into homes, failure to inform detainees of their rights and ill-treatment of prisoners. In this regard, it is noted that the number of investigations, charges and convictions are extremely few compared with the number of complaints received or abuses reported; that penalties prescribed by law are not commensurate with the gravity of the crimes committed; and that compensation to the victims of abuse is not always forthcoming, all of which contribute to an atmosphere of impunity. This situation is particularly alarming in view of the way it undermines harmonious relations with minorities, thus leading to ethnic marginalization and escalation of violence.

- Argentina, ICCPR, A/50/40 vol. I (1995) 35 at paras. 153 and 158.

### *Paragraph 153*

Amnesties and pardons have impeded investigations into allegations of crimes committed by the armed forces and agents of national security services and have been applied even in cases where there exists significant evidence of such gross human rights violations as unlawful disappearances and

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detention of persons, including children. Pardons and general amnesties may promote an atmosphere of impunity for perpetrators of human rights violations belonging to the security forces. Respect for human rights may be weakened by impunity for perpetrators of human rights violations.

### *Paragraph 158*

Mechanisms for compensating all remaining victims of past violations of human rights should be developed by amending Act 24,043 or enacting appropriate legislation for the victims of such crimes. Appropriate care should be taken in the use of pardons and general amnesties so as not to foster an atmosphere of impunity (see the Committee's general comment No. 7 (16)). The members of the armed forces or security forces against whom sufficient evidence of involvement in gross human rights violations exists should be removed from their posts.

- Haiti, ICCPR, A/50/40 vol. I (1995) 46 at paras. 230 and 235.

### *Paragraph 230*

The effects of the Amnesty Act, agreed upon during the process which led to the return of the elected Government of Haiti are of concern. It is of concern that, despite the limitation of its scope to political crimes committed in connection with the *coup d'état* or during the past regime, the Amnesty Act might impede investigations into allegations of human rights violations, such as summary and extrajudicial executions, disappearances, torture and arbitrary arrests, rape and sexual assault, committed by the armed forces and agents of national security services. An amnesty in wide terms may promote an atmosphere of impunity for perpetrators of human rights violations and undermine efforts to re-establish respect for human rights in Haiti and to prevent a recurrence of the massive human rights violations experienced in the past.

### *Paragraph 235*

In view of the fact that the Amnesty Act was adopted before the reinstatement of the legitimate Government, the Committee urges the State party to apply that Act in conformity with the Covenant and to exclude from its scope the perpetrators of past human rights violations.

- Yemen, ICCPR, A/50/40 vol. I (1995) 49 at para. 252.

The general amnesty granted to civilian and military personnel for human rights violations they may have committed against civilians during the civil war is noted with concern. In this regard it is noted that some amnesty laws may prevent appropriate investigation and punishment of perpetrators of past human rights violations, undermine efforts to establish respect of human rights, contribute to an atmosphere of impunity among perpetrators of human rights violations, and constitute impediments to efforts undertaken to consolidate democracy and promote respect for human rights.

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- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at para. 389.

The excessive and disproportionate use of force by Russian forces in Chechnya, indicating grave violations of human rights, is deplored. The fact that no one has been made responsible for the inhumane treatment of prisoners and other detained persons, that investigations on charges of human rights violations by Russian forces, including killing of civilians, have so far been inadequate, that civilian installations such as schools and hospitals were destroyed by government forces, and that a large number of civilians have been killed or displaced as a consequence of the destruction of their homes is further deplored.

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at para. 450.

The information received of cases of loss of life of civilians, disappearances, torture, and summary executions and arbitrary detention caused by both parties in conflict is of serious concern. It is noted with particular concern that an effective system for the prevention and punishment of such violations does not appear to exist. In addition, concern is expressed that violations and abuses allegedly committed by police officers have not been investigated by an independent body, and that frequently the perpetrators of such violations have not been punished. It is noted that this may contribute to an atmosphere of impunity among the perpetrators of human rights violations and constitute an impediment to the efforts being undertaken to promote respect for human rights.

- Spain, ICCPR, A/51/40 vol. I (1996) 24 at para. 176.

Concern is expressed over the numerous reports received regarding the ill-treatment and even torture inflicted on persons suspected of acts of terrorism by members of the security forces. It is noted with concern, in that regard, that investigations are not always systematically carried out by the public authorities and that when members of the security forces are found guilty of such acts and sentenced to deprivation of liberty, they are often pardoned or released early, or simply do not serve the sentence. Moreover, those who perpetrate such deeds are seldom suspended from their functions for any length of time.

- Guatemala, ICCPR, A/51/40 vol. I (1996) 33 at paras. 220, 229, 241 and 242.

### *Paragraph 220*

It is noted that various segments of the population, particularly persons who are or were members of the armed forces or government officials, or who hold economic power, continue to take advantage of a climate of impunity resulting in the most serious human rights violations and this has been an obstacle to the rule of law in the State party.



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### *Paragraph 229*

It is of concern that the absence of a State policy for combatting impunity has prevented the identification, trial and punishment if found guilty of those responsible, and the payment of compensation to the victims. The delays and failures of the process of law, and the non-compliance by the police with court decisions and orders has heightened the public perception that justice cannot be obtained.

### *Paragraph 241*

The Guatemalan Government should take all pertinent measures to avoid cases of impunity and, especially, allow the victims of human rights violations to find out the truth about those acts, know who the perpetrators of such acts are and obtain appropriate compensation.

### *Paragraph 242*

The State party should endeavour to bring to justice perpetrators of human rights abuses, notwithstanding the positions they may have held, in accordance with the Covenant. The State party should investigate allegations of human rights violations, past and present, and act on the findings of its investigations, bring to justice those suspected, punish the perpetrators and compensate the victims of such acts. Persons found guilty of having committed human rights violations should be expelled from the armed or security forces and punished accordingly.

- Nigeria, ICCPR, A/51/40 vol. I (1996) 37 at para. 284.

The high number of extrajudicial and summary executions, disappearances, cases of torture, ill-treatment, and arbitrary arrest and detention by members of the army and security forces and the failure of the Government to investigate fully these cases, to prosecute alleged offences, to punish those found guilty and provide compensation to the victims or their families are matters of concern. The resulting state of impunity encourages further violations of Covenant rights.

- Brazil, ICCPR, A/51/40 vol. I (1996) 44 at paras. 313 and 325.

### *Paragraph 313*

The Committee deplores the fact that cases of summary and arbitrary executions, torture, death threats, arbitrary and unlawful detention and violence against detainees and other prisoners are seldom properly investigated and very frequently go unpunished. Members of security forces implicated in gross human rights violations enjoy a high level of impunity.

### *Paragraph 325*

It is imperative that stringent measures are adopted to address the issue of impunity by ensuring that allegations of human rights violations are promptly and thoroughly investigated, that the perpetrators

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are prosecuted, that appropriate punishments are imposed on those convicted, and that victims are adequately compensated. Members of the security forces convicted of serious offences should be permanently removed from the forces and those members of the forces against whom allegations of such offences are being investigated should be suspended from their posts pending completion of the investigation.

- Peru, ICCPR, A/51/40 vol. I (1996) 48 at paras. 347, 348, 354 and 358.

### *Paragraph 347*

The amnesty, which absolves from criminal responsibility and from all forms of accountability, all military, police and civilian agents of the State who are accused, investigated, charged, processed or convicted for common and military crimes for acts occasioned by the "war against terrorism", is of concern as this makes it practically impossible for victims of human rights violations to institute successful legal action for compensation. Such an amnesty prevents appropriate investigation and punishment of perpetrators of past human rights violations, undermines efforts to establish respect for human rights, contributes to an atmosphere of impunity among perpetrators of human rights violations and constitutes a very serious impediment to efforts undertaken to consolidate democracy and promote respect for human rights and is thus in violation of article 2 of the Covenant. In this connection, this type of amnesty is incompatible with the duty of States to investigate human rights violations, to guarantee freedom from such acts within their jurisdiction and to ensure that they do not occur in the future.

### *Paragraph 348*

The Decree Laws, which purports to divest individuals of the right to have the legality of the Amnesty Law reviewed in courts, are of concern. Domestic legislation cannot modify a State party's international obligations under the Covenant.

### *Paragraph 354*

The cases of disappearances, summary executions, torture, ill-treatment and arbitrary arrest and detention by members of the army and security forces and the Government's failure to investigate fully those cases, to prosecute alleged offences, to punish those found guilty and to provide compensation to the victims and their families are matters of deep concern. The failure to resolve the high number of cases of past disappearances is of particular concern.

### *Paragraph 358*

The necessary steps should be taken to restore the authority of the judiciary and give effect to the right to effective remedy under article 2 of the Covenant and thus overcome the prevailing atmosphere of impunity. In view of the fact that the amnesty laws violate the Covenant, the Government of Peru should review and repeal those laws to the extent of such violations. In particular, the Government is urged to remedy the unacceptable consequences of those laws by, *inter*

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*alia*, establishing an effective system of compensation for the victims of human rights violations and taking the necessary steps to ensure that the perpetrators of those violations do not continue to hold government positions.

- Bolivia, ICCPR, A/52/40 vol. I (1997) 35 at para. 205.

The current legislation for combatting impunity has proven to be ineffective in the identification, trial and punishment of those responsible for human rights violations, and in the payment of compensation to the victims. Members of the armed forces and other government officials who were involved in the most serious human rights violations have not always been dismissed, and continue to take advantage of their positions, thus reinforcing impunity within the State party.

- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at paras. 281 and 295.

### *Paragraph 281*

It is of great concern that impunity continues to be a widespread phenomenon. The broadening of the concept of service-related acts by the Higher Adjudication Council, to enable the transfer from civilian jurisdiction to military tribunals of many cases involving human rights violations by military and security forces, reinforces the institutionalization of impunity in Colombia, since the independence and impartiality of these tribunals are doubtful. The military penal system lacks many of the requirements for a fair trial spelled out in article 14, for example the amendments to article 221 of the Constitution allowing active duty officers to sit on military tribunals and the fact that members of the military have the right to invoke as defence the orders of a superior.

### *Paragraph 295*

In order to combat impunity, stringent measures should be adopted to ensure that all allegations of human rights violations are promptly and impartially investigated, that the perpetrators are prosecuted, that appropriate punishment is imposed on those convicted and that the victims are adequately compensated. The permanent removal of officials convicted of serious offences and the suspension of those against whom allegations of such offences are being investigated should be ensured.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at para. 342.

The amnesty granted to civilian and military personnel for human rights violations they may have committed against civilians during the civil war is of concern. Such a sweeping amnesty may prevent the appropriate investigation and punishment of the perpetrators of past human rights violations, undermine efforts to establish respect for human rights, and constitute an impediment to efforts

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undertaken to consolidate democracy.

- France, ICCPR, A/52/40 vol. I (1997) 62 at para. 403.

The number and serious nature of the allegations received regarding the ill-treatment by law enforcement officials towards detainees and other persons who come into conflictual contact with them, including unnecessary use of firearms resulting in a number of deaths, the risk of such ill-treatment being much greater in the case of foreigners and immigrants are matters of concern. The reported increase in the number of suicides in detention centres is also of concern. The Committee is concerned that in most cases there is little, if any, investigation of complaints of such ill-treatment by the internal administration of the police and the *gendarmerie nationale*, resulting in virtual impunity. It is also of concern that no independent mechanism exists to receive individual complaints from detainees. Therefore, the State party should take appropriate measures to remedy this state of affairs and, *inter alia*, reduce the level of use of solitary confinement. The State party should also establish an independent mechanism to monitor detention centres and to receive and deal with individual complaints of ill-treatment by law enforcement officials.

- India, ICCPR, A/52/40 vol. I (1997) 67 at para. 436.

Concern is expressed over the fact that criminal prosecutions or civil proceedings against members of the security and armed forces, acting under special powers, may not be commenced without the sanction of the central Government. This contributes to a climate of impunity and deprives people of remedies to which they may be entitled in accordance with article 2, paragraph 3, of the Covenant. Therefore, the requirement of governmental sanction for civil proceedings should be abolished and it should be left to the courts to decide whether proceedings are vexatious or abusive. Judicial inquiries should be mandatory in all cases of death at the hands of the security and armed forces and the judges in such inquiries, including those under the Commission of Enquiry Act of 1952, should be empowered to direct the prosecution of security and armed forces personnel.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 128.

The explanation that prosecution of security personnel under the National Security Act 1994, as amended, is restricted when such persons act in the course of their duties is noted. It is of concern that permission must be obtained for any such prosecution. Members of the police and security forces should be subject to prosecution and civil suits for abuse of power without any legal restriction; the provisions of the National Security Act 1994, as amended, are inconsistent with that concept and should be repealed.

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

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

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at para. 225.

The extension of immunity to individuals committing acts of political violence against government opponents is of concern. The lack of political pluralism threatens the enjoyment of democracy in Zimbabwe.

- Uruguay, ICCPR, A/53/40 vol. I (1998) 38 at para. 240.

In a number of cases the maintenance of the *Ley de Caducidad de la Pretensión Punitiva del Estado* (Expiry Law of the Punitive Powers of the State) effectively excludes the possibility of investigation into past human rights abuses and thereby prevents the State party from discharging its responsibility to provide effective remedies to the victims of those abuses. The Expiry Law violates article 16 of the Covenant in respect of the disappeared persons and article 7 in respect of their family members. The State party is encouraged to promote and facilitate every opportunity to discuss this issue within the country, in order to find a solution that is in full compliance with Uruguay's obligations under the Covenant.

- Ecuador, ICCPR, A/53/40 vol. I (1998) 43 at para. 280.

The information that article 23 of the Constitution prohibits the enactment of amnesty legislation or the granting pardons for human rights violations; that torture, enforced disappearances and extrajudicial executions have no statute of limitation; and that obedience to superior orders cannot be invoked as an extenuating circumstance are welcomed. Also welcomed is the information that the jurisdiction of the military tribunals has been limited to members of the armed forces in the exercise of their official functions; that these tribunals have no jurisdiction over civilians; and that cases of

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human rights violations by members of the army and the security forces fall under the jurisdiction of civilian courts.

- Chile, ICCPR, A/54/40 vol. I (1999) 44 at para. 205.

The wide jurisdiction of the military courts to deal with all the cases involving prosecution of military personnel and their power to conclude cases that began in the civilian courts contribute to the impunity which such personnel enjoy against punishment for serious human rights violations. The jurisdiction of military courts to try civilians does not comply with article 14 of the Covenant. Therefore, the jurisdiction of the military courts should be restricted to trial only of military personnel charged with offences of an exclusively military nature.

- Lesotho, ICCPR, A/54/40 vol. I (1999) 51 at paras. 257 and 260.

### *Paragraph 257*

The continuing influence of the military in civilian matters and in particular the climate of impunity for crimes and abuses of authority committed by members of the military is of concern. The State party is strongly urged to take measures to ensure the primacy of civil and political authority.

### *Paragraph 260*

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

- Congo, ICCPR, A/55/40 vol. I (2000) 43 at para. 275.

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

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

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Many areas of concern remain in relation to discrimination against women and the inability of women fully to enjoy Covenant rights (articles 3 and 26 of the Covenant). In particular, employers who discriminate against women in private sector employment must not have effective impunity in the face of court judgements.

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at para. 74(9).

Despite positive measures taken recently to overcome past injustices, including the repeal in 1998 of the Law of Due Obedience and the *Punto Final* Law, many persons whose actions were covered by these laws continue to serve in the military or in public office, with some having enjoyed promotions in the ensuing years. The atmosphere of impunity for those responsible for gross human rights violations under military rule is of concern. Gross violations of civil and political rights during military rule should be prosecutable for as long as necessary, with applicability as far back in time as necessary to bring their perpetrators to justice. Rigorous efforts should continue to be made in this area and measures should be taken to ensure that persons involved in gross human rights violations are removed from military or public service.

- Peru, ICCPR, A/56/40 vol. I (2001) 45 at para. 76(9).

The 1995 amnesty laws are an obstacle to the investigation and punishment of the persons responsible for offences committed in the past, contrary to article 2 of the Covenant. Recent information stating that the Government is sponsoring a new general amnesty act as a prerequisite for the holding of elections is of deep concern. The State party should review and repeal the 1995 amnesty laws, which help create an atmosphere of impunity. The State party is urged to refrain from adopting a new amnesty act.

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at para. 78(8).

The reports of extrajudicial executions of prisoners in the custody of the State party in its prisons and of deaths at the hands of the National Police, the Armed Forces and the National Drug Control Office owing to the excessive use of force and the apparent impunity that they enjoy are noted with concern. The State party should take urgent steps to ensure respect for article 6 of the Covenant, to have those responsible for violations of the right to life guaranteed thereunder prosecuted and punished, and to make redress.

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at para. 80(11).

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The implications of the Amnesty Law are of concern. While that law specifically states that the amnesty does not apply to war crimes, the term 'war crimes' is not defined and there is a danger that the law will be applied so as to grant impunity to persons accused of serious human rights violations. The State party should ensure that in practice the Amnesty Law is not applied or utilised for granting impunity to persons accused of serious human rights violations.

- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at para. 83(16).

It is of concern that complaints against police are handled by an internal police inspectorate, while criminal investigations are handled by the Interior Ministry which has overall responsibility for police. This system lacks objectivity and credibility and would seem to facilitate impunity for police involved in human rights violations (arts. 2, 7, 9). 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 the police.

- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at paras. 85(12) and 85(20).

### *Paragraph 85(12)*

The absence of a State policy intended to combat impunity has prevented the identification, trial and punishment of those responsible for violations of article 6 and the payment of compensation to the victims. It is of concern that delays in and the shortcomings of legal procedure and the failure of the authorities to comply with the decisions and orders of the courts have strengthened the perceptions by the public that justice is not being done. The State party should strictly apply the National Reconciliation Act, which explicitly excludes crimes against humanity from amnesty, set up an appropriate independent body to investigate disappearances and provide adequate compensation for the victims of human rights violations.

### *Paragraph 85(20)*

The wide jurisdiction of the military courts to hear all cases involving the trial of military personnel and their powers to decide cases that belong to the ordinary courts contribute to the impunity enjoyed by such personnel and prevent their punishment for serious human rights violations. The State party should amend the law to limit the jurisdiction of the military courts to the trial of military personnel who are accused of crimes of an exclusively military nature (articles 6, 7, 9 and 14 of the Covenant).

## **ICESCR**

- Russian Federation, ICESCR, E/1998/22 (1997) 27 at para. 100.



## **EFFECTIVE REMEDIES - IMPUNITY**

The situation of the indigenous peoples, many of whom live in poverty and have inadequate access to food, and some of whom suffer from malnutrition, is of concern. Particular concern is expressed for those whose food supply is based on fishing and an adequate stock of reindeer, and who are witnessing the destruction of their environment by widespread pollution. Reports that the economic rights of indigenous peoples are violated with impunity by oil and gas companies which sign agreements under circumstances which are clearly illegal, and that the State party has not taken adequate steps to protect the indigenous peoples from such exploitation, are alarming.

- Sudan, ICESCR, E/2001/22 (2000) 57 at para. 300.

The general unconditional amnesty granted by the President in June 2000 to all government opponents, inside and outside the Sudan, is acknowledged with appreciation.

- Senegal, ICESCR, E/2002/22 (2001) 61 at para. 350.

There is concern that, in spite of the existence of legislation banning the practice of female genital mutilation, it is still practiced with impunity by certain ethnic groups and in certain regions.

### **CAT**

- Portugal, CAT, A/49/44 (1994) 17 at para. 113.

It is noted with regret that:

Ill-treatment and occasionally acts qualified as torture continue in police stations and other places of detention throughout the country;

Investigations into such allegations are often embarked upon rather late and last too long and offenders are not always brought to court. That situation, together with the lightness of the sentences imposed, creates an impression that the culprits act with relative impunity - an impression highly prejudicial to the implementation of the provisions of the Convention.

### ***See also:***

- Mauritius, CAT, A/50/44 (1995) 20 at para. 140.

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- Morocco, CAT, A/50/44 (1995) 17 at para. 109.

Allegations concerning torture and ill treatment, said to be practised in various places of detention, in particular in police stations, are of concern. Shortcomings relating to the effectiveness of the preventive measures taken to combat torture, in particular the half-heartedness displayed in pursuing inquiries and bringing the authors of acts of torture before the courts, whose independence must be preserved, are also of concern. This situation creates the impression that such offences can be committed with relative impunity, an impunity prejudicial to the application of the provisions of the Convention.

- Guatemala, CAT, A/51/44 (1996) 10 at para. 55.

The *de facto* impunity for perpetrators of torture resulting from the facts and the weakness shown by the judicial, administrative and police authorities in enforcing the law is a matter of deep concern.

- Colombia, CAT, A/51/44 (1996) 15 at para. 80.

The situation of impunity must be terminated by adopting the necessary legislative and administrative amendments to ensure that military courts judge only violations of military regulations, punishing torture by means of penalties commensurate with its seriousness and dispelling any doubt as to the responsibility of anyone who obeys an illegal order.

- Senegal, CAT, A/51/44 (1996) 19 at para. 112.

The fact that the State party invokes a discrepancy between international and internal law to justify granting impunity for acts of torture on the basis of the amnesty laws is of concern.

- Mexico, CAT, A/52/44 (1997) 26 at para. 163.

The ineffectiveness of efforts to put an end to the practice of torture is the result, *inter alia*, of the continuing impunity of torturers and the fact that the authorities responsible for the administration of justice continue to admit confessions and statements made under torture as evidence during trials, despite legal provisions explicitly declaring them inadmissible.

- Guatemala, CAT, A/53/44 (1998) 17 at para. 164.

## EFFECTIVE REMEDIES - IMPUNITY

The following is of concern:

The persistence of impunity for crimes, particularly grave human rights violations;

Problems resulting from incompetence in the Public Prosecutor's Office, the Judiciary and the Police, which are responsible for investigating reports, identifying and arresting the perpetrators and bringing them to trial.

- Yugoslavia, CAT, A/54/44 (1999) 6 at para. 48.

*De jure* impunity of the perpetrators of torture and other cruel, inhuman or degrading treatment or punishment results, *inter alia*, from amnesties, suspended sentences and reinstatement of discharged officers that have been granted by the authorities. Insufficient reaction to complaints results in the *de facto* impunity of the perpetrators of acts of torture.

- Croatia, CAT, A/54/44 (1999) 8 at para. 66.

The fact that the Amnesty Act is applicable to a number of offences characterized as acts of torture or other cruel, inhuman or degrading treatment or punishment within the meaning of the Convention is of concern.

- Tunisia, CAT, A/54/44 (1999) 11 at para. 100.

By constantly denying allegations, the authorities are in fact granting those responsible for torture immunity from punishment, thus encouraging the continuation of these abhorrent practices.

- Venezuela, CAT, A/54/44 (1999) 16 at paras. 137, 138 and 148.

### *Paragraph 137*

Concern is expressed over the failure of the competent organs of the State to fulfil their duty to investigate complaints and punish those responsible, who generally enjoy impunity; this encourages repetition of the conduct in question.

### *Paragraph 138*

Provisions exempting from criminal responsibility persons who act on the basis of due obedience to a superior are incompatible with article 46 and article 2, paragraph 3, of the Convention.

## EFFECTIVE REMEDIES - IMPUNITY

### *Paragraph 148*

The State party should repeal rules providing for exemption from criminal responsibility on the grounds that the person concerned is acting in due obedience to a superior. In practice these rules leave open to judicial interpretation provisions which are incompatible with article 3, paragraph 2, of the Convention.

- Peru, CAT, A/55/44 (2000) 13 at paras. 59 and 61.

### *Paragraph 59*

Concern is expressed about the apparent lack of effective investigation and prosecution of those who are accused of having committed acts of torture. The use of, in particular, the amnesty laws which preclude prosecution of alleged torturers who must, according to articles 4, 5 and 12 of the Convention, should be investigated and prosecuted where appropriate.

### *Paragraph 61*

The State party should ensure vigorous investigation and, where appropriate, the prosecution of all reported instances of alleged torture and ill-treatment by its authorities, whether civil or military. Amnesty laws should exclude torture from their reach.

- Azerbaijan, CAT, A/55/44 (2000) 16 at paras. 68 and 69.

### *Paragraph 68*

There is an apparent failure to provide prompt, impartial and full investigation into numerous allegations of torture, as well as failure to prosecute, where appropriate, the alleged perpetrators and this is of concern. The use of amnesty laws that might extend to the crime of torture.

### *Paragraph 69*

In order to ensure that perpetrators of torture do not enjoy impunity, the State party should ensure the investigation and, where appropriate, the prosecution of those accused of having committed the crime of torture, and ensure that amnesty laws exclude torture from their reach.

### *See also:*

- Kyrgyzstan, CAT, A/55/44 (2000) 17 at para. 75.

- Canada, CAT, A/56/44 (2001) 24 at paras. 58 and 59.

### *Paragraph 58*

## **EFFECTIVE REMEDIES - IMPUNITY**

Concern is expressed over the possibility that an accused torturer could still plead a number of defences that would grant him/her immunity, including that foreign proceedings had been conducted for the purpose of shielding the accused from criminal responsibility; that the offense was committed in obedience of the law in force at the time; or that the accused had a motivation other than an intention to be inhumane.

### *Paragraph 59*

The State party should prosecute every case of an alleged torturer in a territory under its jurisdiction where it does not extradite that person and the evidence warrants it, and prior to any deportation. The defences that could grant an accused torturer immunity should be removed from current legislation.

- Georgia, CAT, A/56/44 (2001) 35 at paras. 81 and 82.

### *Paragraph 81*

Concern is expressed over the following:

The failure to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture, as well as insufficient efforts to prosecute alleged offenders in non-compliance with articles 12 and 13 of the Convention, resulting in a state of impunity of alleged offenders.

The instances of mob violence against religious minorities, in particular Jehovah's witnesses, and the failure of the police to intervene and take appropriate action despite the existence of the legal tools to prevent and prosecute such acts and the risk of this apparent impunity resulting in such acts becoming widespread.

### *Paragraph 82*

It is recommended that in order to ensure that perpetrators of torture do not enjoy impunity, urgent steps be taken to: i) establish an effective and independent complaints mechanism; ii) make provisions for the systematic review of all convictions based upon confessions that may have been obtained through torture; iii) make adequate provisions for compensation and rehabilitation of victims of torture.

- Bolivia, CAT, A/56/44 (2001) 40 at paras. 95, 97 and 98.

### *Paragraph 95*

## **EFFECTIVE REMEDIES - IMPUNITY**

Concern is expressed with respect to the following:

The impunity accorded to human rights violations and, in particular, the use of torture, which appears to be widespread, resulting from the lack of any investigation of complaints and the slow pace and inadequacy of such investigations, which demonstrates the lack of effective action by the authorities to eradicate these practices and, in particular, the dereliction of duty on the part of the Public Prosecutor's Office and the courts. The lack of investigations is compounded by the failure to remove the accused police officers from office, further reaffirming impunity and encouraging the continuation or repetition of these practices;

Failure to respect the maximum period for holding persons incommunicado, set at 24 hours in the Constitution, which facilitates the practice of torture and cruel, inhuman and degrading treatment, and impunity therefore.

### *Paragraph 97*

The necessary measures should be adopted to ensure effective compliance by government procurators with their duty to conduct criminal investigations into any complaint of torture and cruel, inhuman or degrading treatment in a prompt and impartial manner; during these investigations, the accused officials should be suspended from their duties.

### *Paragraph 98*

The judiciary and the Public Prosecutor's Office are particularly urged to take the lead in action to redress serious omissions in the investigation and punishment of torture and cruel, inhuman and degrading treatment.

- Brazil, CAT, A/56/44 (2001) 49 at paras. 119 and 120.

### *Paragraph 119*

Concern is expressed about the following:

The persistence of a culture that accepts abuses by public officials, the numerous allegations of acts of torture and cruel, inhuman or degrading treatment - in police stations, prisons and facilities belonging to the armed forces - and the *de facto* impunity enjoyed by the perpetrators of those acts;

The competence of the police to conduct inquiries following reports of crimes of torture committed by members of police forces without effective control in practice by the Public Prosecutor's Office, with the result that immediate and impartial inquiries are prevented, which contributes to the impunity enjoyed by the perpetrators of these acts.

### *Paragraph 120*

## **EFFECTIVE REMEDIES - IMPUNITY**

All necessary measures should be taken to ensure that immediate and impartial inquiries are carried out, under the effective control of the Public Prosecutor's Office, in all cases of complaints of torture or cruel, inhuman or degrading treatment, including acts committed by members of police forces. During such inquiries, the officers concerned should be suspended from their duties.

### **CRC**

- Mexico, CRC, CRC/C/24 (1994) 12 at para. 35.

The great number of complaints of ill-treatment of children attributed to the police and security or military personnel is of concern. The failure to take effective steps to punish those found guilty of such violations or to make public eventual punishments is also disturbing; this may lead to a feeling on the part of the population that impunity prevails and that it is therefore useless or dangerous to bring complaints before the competent authorities.

- Philippines, CRC, CRC/C/38 (1995) 12 at para. 62.

The level of violence and the high incidence of ill-treatment and abuse of children, including cases attributed to the police or military personnel are of concern. The efforts of the Government to combat child abuse and neglect are insufficient, both from the prevention and the sanction point of view. The failure to take effective steps to prosecute and punish those responsible for such violations or to make public decisions taken in this regard, including towards paedophiles, may lead to a feeling in the population that impunity prevails and that it is therefore useless to bring complaints before the competent authorities.

- Colombia, CRC, CRC/C/38 (1995) 16 at para. 93.

Firm measures should be taken to ensure the right to survival for all children, including those who live in poverty, who have been abandoned, or those who are forced to live and/or work in the streets to survive. Such measures should aim at the effective protection of children against the occurrence of violence, disappearance, assassination or alleged organ trafficking. Thorough and systematic investigation should be carried out and severe penalties applied to those found responsible for such violations of children's rights. Violations of human rights and children's rights should always be examined by civilian courts under civilian law, not by military courts. The outcome of investigations and cases of convictions should be widely publicized in order to deter future offences and thus combat the perception of impunity.

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- Nicaragua, CRC, CRC/C/43 (1995) 10 at para. 49.

The problems of abuse and violence, which persist in the family and society in general, are of deep concern. In view of this reality, the adequacy of measures to prevent such abuse and violence, to respond to children's reports of their abuse, to safeguard children who report abuse and to prevent the impunity of those who have committed abuse against children, remain matters of considerable concern.

- Yugoslavia (Serbia and Montenegro), CRC, CRC/C/50 (1996) 17 at paras. 88, 89 and 117.

### *Paragraph 88*

The abuse of children and teachers by the police and the prevailing opinion of the victims of such abuse that the police are able to act with impunity are of concern.

### *Paragraph 89*

Reports of the treatment of persons, including children belonging to a religious minority (Muslims), in Sandjak, where incidents of harassment, police abuse, violent house searches and commission of human rights violations with impunity are alleged to have occurred, are of concern. There have also been reports about serious incidents of discrimination against the Roma (Gypsy) population.

### *Paragraph 117*

In the case of alleged violations of human rights committed by groups of individuals, the responsibility of the authorities to undertake measures to protect children from such acts is emphasized. Those accused of abuses should be tried and, if found guilty, punished. In addition, the outcome of investigations and cases of convictions should be widely publicized in order to combat any perception of impunity.

- Croatia, CRC, CRC/C/50 (1996) 31 at paras. 199 and 204.

### *Paragraph 199*

The apparent disregard for judicial decisions is of deep concern. Allegations continue to be made about incidents in which members of minority groups, particularly of Serbian and Muslim origin, are harassed and the perpetrators left unpunished. The phenomenon of impunity draws adverse consequences for society as a whole and for the generation of children who witness it.

### *Paragraph 204*

Public information activities and other appropriate action should be undertaken to make better known the principles and provisions of the Convention on the Rights of the Child and other relevant



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international human rights instruments, including through their incorporation in school curricula, with a view to enhancing democratic institutions, achieving national reconciliation, encouraging the protection of the rights of children belonging to minority groups and eliminating the atmosphere of impunity among those that harass these groups.

- Guatemala, CRC, CRC/C/54 (1996) 31 at paras. 197, 210 and 214.

### *Paragraph 197*

Over 30 years of armed conflict in the country have left a legacy of human rights violations, impunity and a climate of fear and intimidation which hampers the confidence of the population in the ability of procedures and mechanisms to ensure respect for human rights.

### *Paragraph 210*

The high number of child victims of violence raises serious concern, particularly in view of the ineffectiveness of investigations into crimes committed against children, which paves the way for widespread impunity.

### *Paragraph 214*

The lack of specialized training of professionals working in the field of juvenile justice, which hampers efforts to ensure the independence of the judiciary and the capacity of the system to effectively investigate crimes committed against children and undermines measures to eradicate impunity, is also a concern.

- Honduras, CRC, CRC/C/87 (1999) 26 at para. 120.

All appropriate measures, including setting up multidisciplinary programmes and rehabilitation measures, should be taken to prevent and combat child abuse and ill-treatment of children within the family, at school and in society at large. Law enforcement should be strengthened with respect to such crimes and adequate procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders.

### *See also:*

- Colombia, CRC, CRC/C/100 (2000) 64 at para. 368.
- Dominican Republic, CRC, CRC/C/103 (2001) 91 at para. 515.
  
- Venezuela, CRC, CRC/C/90 (1999) 10 at paras. 47, 50 and 52.

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### *Paragraph 47*

Concern is expressed over the alleged cases of killings of children during anti-crime operations. Effective measures to prevent the killing of children should be undertaken in order to avoid impunity of the alleged perpetrators. Effective judicial mechanisms should be used to investigate these killings.

### *Paragraph 50*

The persistent allegations about children being detained in conditions which amount to cruel, inhuman or degrading treatment, and about children being physically ill-treated by members of the police or the armed forces are of concern. Judicial mechanisms should be used to effectively deal with complaints of police brutality, ill-treatment and the abuse of children. Cases of violence and abuse against children should be duly investigated in order to avoid the impunity of perpetrators.

### *Paragraph 52*

All appropriate measures should be taken to prevent and combat child abuse and neglect of children in society at large, including setting up multidisciplinary treatment, rehabilitation programmes, and educational programmes. Law enforcement should be strengthened with respect to such crimes and procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice, in order to avoid impunity of the offenders.

### *See also:*

- Mexico, CRC, CRC/C/90 (1999) 34 at para. 182.
  
- India, CRC, CRC/C/94 (2000) 10 at para. 72.

The State party should implement the recommendations made by the National Police Commission in 1980 and the Parliamentary Committee in 1996, which, *inter alia*, call for a mandatory judicial inquiry in cases of alleged rape, death or injury of persons in police custody; the establishment of investigative bodies; and payment of compensation to people who have been victims of custodial abuse. Section 43 of the Police Act should be amended so that police cannot claim immunity for actions while executing a warrant in cases of illegal detention or custodial abuse.

- Cambodia, CRC, CRC/C/97 (2000) 64 at para. 373.

Effective measures should be taken, including setting up multidisciplinary programmes and care and rehabilitation measures, to prevent and combat child abuse and ill-treatment of children within the family, at school and other institutions, and in society at large. Law enforcement should be

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strengthened with respect to such crimes. Adequate child-friendly procedures and mechanisms to deal with complaints of child abuse should be reinforced in order to provide children with prompt access to justice and to avoid impunity for the offenders. Furthermore, educational programmes should be established to combat traditional attitudes within society regarding this issue.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 127 and 128.

### *Paragraph 127*

Concern is expressed that violations of human rights, including in particular the killing of civilians, committed against children or their parents are only rarely addressed through judicial processes and that this climate of impunity is detrimental to the overall respect of children's rights.

### *Paragraph 128*

Much greater efforts should be made to investigate violations of human rights and to prosecute the perpetrators of these acts.

- Colombia, CRC, CRC/C/100 (2000) 64 at paras. 356, 357, 360 and 361.

### *Paragraph 356*

In the light of article 6 and other related provisions of the Convention, deep concern is expressed at the threat posed by the armed conflict to children's lives, including instances of extrajudicial killing, disappearance and torture committed by the police and paramilitary groups; at the multiple instances of "social cleansing" of street children; and at the persistent impunity of the perpetrators of such crimes.

### *Paragraph 357*

Effective measures should continue to be taken to protect children from the negative effects of the armed conflict. The State party is urged to protect children against "social cleansing" and to ensure that judicial action is taken against the perpetrators of such crimes.

### *Paragraph 360*

In the light of its previous recommendation concerning the need to conduct special investigations in cases of gross violations of human rights involving children, the Committee regrets the lack of follow-up information on this issue and reiterates its concern about alleged cases of street children tortured and ill-treated by members of the police and/or paramilitary groups.

### *Paragraph 361*

The State party is urged to undertake effective measures to ensure that such acts receive an

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appropriate response through the judicial process, in order to avoid impunity for the perpetrators.

- Lesotho, CRC, CRC/C/103 (2001) 57 at para. 344.

The State party should establish an effective child-friendly complaint and investigation system to address acts of violence committed by law enforcement or other officials against children and to ensure that the perpetrators of such acts do not enjoy impunity. Awareness of children's rights issues within the criminal justice system should be strengthened.

- Dominican Republic, CRC, CRC/C/103 (2001) 91 at para. 510.

In the light of article 37 and other related articles of the Convention, the State party should effectively use its judicial mechanisms to deal with complaints of police brutality, ill-treatment and abuse of children, and cases of violence against and abuse of children should be duly investigated in order to avoid impunity for the perpetrators. Ratification of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be considered.

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 119 and 120.

### *Paragraph 119*

Extreme concern is expressed about violations of the right of the child not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment that appear in the number of reported cases of torture and/or ill-treatment of children, especially when placed in pre-trial detention. It is noted that in a number of cases children are held *incommunicado* when in police or *gendarma* custody and are not allowed the presence of a lawyer, practices which can provide protection from torture and ill-treatment, and are not interrogated in presence of a prosecutor, as established by law. It is also noted with concern that alleged cases of torture against children are not always duly investigated and perpetrators convicted, thus creating a climate of impunity.

### *Paragraph 120*

In the light of article 37(a) of the Convention and in line with the recommendations of the Special Rapporteur on Torture (see E/CN.4/1999/61/Add.1), it is strongly recommended that the State party enforce, or, where appropriate, review existing legislation, with a view to preventing children being held *incommunicado*, and investigate in an effective way cases of torture and ill-treatment of children. Alleged perpetrators should be transferred from active duty or suspended while they are under investigation and dismissed if convicted. The State party is invited to continue with the systematic training of law enforcement personnel on child rights issues.

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- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 213 and 214.

### *Paragraph 213*

The direct and indirect impact of the armed conflict on almost all children in the State party is of deep concern. Concern is expressed about the deliberate killing of children by armed forces of the State party, armed forces of other State parties that have participated in the conflict and by other armed groups, and about the continuing impunity for such acts constituting very serious violations of children's rights.

### *Paragraph 214*

The State party is urged to strengthen its efforts to end the armed conflict to ensure that the protection and promotion of children's rights are given due consideration in the ongoing peace process. Further, the State party is urged to prevent the killing or other forms of harm of children and to ensure that those persons responsible for committing such acts are prosecuted.

- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at para. 318.

The State party should take all necessary measures to improve the conditions of detention of children in prisons and to ensure that each case of violence and abuse is duly investigated in order to avoid impunity being enjoyed by the perpetrators.