

EFFECTIVE REMEDIES - IMPUNITY

III. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Nepal, CERD, A/59/18 (2004) 24 at para. 127.

127. The Committee remains deeply concerned at the persistence of the *de facto* caste-based discrimination and the culture of impunity that apparently permeates the higher strata of a hierarchical social system. In particular, it is concerned at information on the existence of segregated residential areas for Dalits, social exclusion of inter-caste couples, restriction to certain types of employment, and denial of access to public spaces, places of worship and public sources of food and water, as well as at allegations that public funds were used for the construction of separate water taps for Dalits.

The Committee recommends that the State party, as a matter of priority, take measures to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind, and make determined efforts to ensure the practical and effective implementation of these measures...

- Suriname, CERD, A/59/18 (2004) 36 at para. 199.

199. The Committee welcomes the delegation's statement that the 1992 Amnesty Act did not terminate the proceedings concerned with human rights violations committed during the civil strife of 1985-1991, including the 1986 Moiwana massacre. It is, however, disturbed that the inquiries into those events have still not reached a conclusion.

The Committee recommends the State party to attach high priority to ensuring that those guilty of human rights violations during the civil war do not go unpunished, and that the victims are offered appropriate compensation as swiftly as possible.

- Nigeria, CERD, A/60/18 (2005) 54 at para. 291.

291. The Committee expresses deep concern about numerous reports of ill-treatment, use of excessive force and extrajudicial killings as well as arbitrary arrests and detentions by law enforcement officials in attempts to quell incidents of intercommunal, inter-ethnic and interreligious violence. The Committee is particularly disturbed at reports of serious acts of violence targeting members of particular ethnic groups in reprisal for attacks on security forces, including the October 2001 incident in Benue State. While the Committee takes note of the establishment of numerous bodies to investigate these incidents, including panels of enquiry, it is concerned that most of the investigations have failed to produce prosecutions

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and sentences commensurate with the gravity of the crimes committed, leading to the appearance of impunity (arts. 2, 4 and 5).

The Committee recommends that the State party intensify its action to halt this phenomenon and requests that it submit detailed information about the number of persons who died and their ethnic affiliations, the prosecution of persons in relation to these events, and the sentences, if any, that were pronounced. The Committee urges the State party to make public the results of all investigations previously announced in response to these events and to sanction those responsible.

ICCPR

- Togo, ICCPR, A/58/40 vol. I (2002) 36 at para. 78(9).

(9) The Committee is concerned at:

(a) information that many extrajudicial executions, arbitrary arrests, threats and intimidation perpetrated by the Togolese security forces, against members of the civilian population, in particular members of the opposition, have not been investigated in a credible manner. The Committee notes that the adoption of laws such as the December 1994 Amnesty Act is likely to reinforce the culture of impunity in Togo.

(b) The fact that the Joint United Nations/OAU International Commission of Inquiry concluded that “a situation involving systematic violations of human rights existed in Togo during 1998” (E/CN.4/2001/134, para. 68). Those violations relate, in particular, to article 6 of the Covenant, and also to articles 7 and 9. The categorical rejection of the Commission’s report, which the State party has declared to be inadmissible, and the creation some weeks later of a national commission of inquiry, which has clearly not sought to identify precisely those responsible for the violations drawn to the Government’s attention, also prompt the greatest concern on the part of the Committee.

The State party should adopt legislative or other measures to combat and prevent the perpetration of such violations, in keeping with articles 6 and 9 of the Covenant and the “Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions”. The State party should establish, through judicial proceedings, the individual responsibilities of the alleged perpetrators of these violations.

- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(15).

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(15) The Committee is concerned by reports of cases of torture and extrajudicial executions, allegedly committed by soldiers in 2000 following the murder of three tourists in Kidal. The Committee finds it difficult to accept the view of the delegation that there were no extrajudicial executions, even though no inquiry has been conducted by the State party. The Committee is also seriously concerned about the delegation's statement that no inquiries have been conducted into the complaints of torture and inhuman or degrading treatment made by members of opposition parties arrested in 1997, because of the national reconciliation process and the need to protect public order (articles 6 and 7).

The State party should avoid the growth of a culture of impunity for the perpetrators of human rights violations and should ensure that systematic inquiries are conducted into allegations of violence against life and limb by its officials.

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at para. 84(6).

(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 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.

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at para. 63(11).

(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.

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at para. 64(13).

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(13) The Committee remains deeply concerned about continuing substantiated reports of human rights violations in the Republic of Chechnya, including extrajudicial killings, disappearances and torture, including rape. The Committee notes that some 54 police and military personnel have been prosecuted for crimes committed against civilians in Chechnya, but remains concerned that the charges and sentences handed down do not appear to correspond with the gravity of the acts as human rights violations. The Committee is also concerned that investigations into a number of large-scale abuses and killings of civilians in 1999 and 2000, in the locations of Alkhan Yurt, Novye Aldy and Staropromyslovskii district of Grozny, have still not been brought to a conclusion. The Committee acknowledges that abuse of and violations against civilians also involve non-State actors, but reiterates that this does not relieve the State party of its obligations under the Covenant. In this regard, the Committee is concerned about the provision in the Federal Law "On Combating Terrorism" which exempts law enforcement and military personnel from liability for harm caused during counter-terrorist operations.

The State party should ensure that operations in the Republic of Chechnya are carried out in compliance with its international human rights obligations. The State party should ensure that abuse and violations are not committed with impunity *de jure* or *de facto*, including violations committed by military and law enforcement personnel during counter-terrorist operations. All cases of extrajudicial executions, enforced disappearances and torture, including rape, should be investigated, their perpetrators prosecuted and victims or their families compensated (arts. 2, 6, 7 and 9).

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at para. 65(8).

(8) 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 and 9).

The State party should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuse of power by the police.

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at para. 66(10).

(10) The Committee is concerned about the large number of enforced or involuntary disappearances of persons during the time of the armed conflict, and particularly about the State party's inability to identify, or inaction in identifying those responsible and to bring them to justice. This situation, taken together with the reluctance of victims to file or pursue

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complaints (see paragraph 9 above), creates an environment that is conducive to a culture of impunity.

The State party is urged to implement fully the right to life and physical integrity of all persons (articles 6, 7, 9 and 10, in particular) and give effect to the relevant recommendations made by the United Nations Commission on Human Rights Working Group on Enforced or Involuntary Disappearances and by the Presidential Commissions for Investigation into Enforced or Involuntary Disappearances. The National Human Rights Commission should be allocated sufficient resources to monitor the investigation and prosecution of all cases of disappearances.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(8) and 67(11).

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

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

...

(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.

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- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at para. 69(7).

(7) The Committee is concerned at the continued impunity of those responsible for human rights violations committed during the period of military rule. In particular, investigations into the December 1982 killings and the 1986 Moiwana massacre remain pending and have not yet produced concrete results. The information supplied by the delegation that all such cases are still being investigated is disturbing, especially given the lapse of time since their occurrence. The Committee further considers 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.

The State party should give special priority to bringing to justice the perpetrators of human rights violations, including human rights violations committed by police and military personnel. The perpetrators of such acts must be tried and punished if found guilty, regardless of rank and political status. The State party should take all necessary measures to prevent the recurrence of such acts. Victims and their relatives should be provided with adequate compensation.

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(20) and 70(21).

(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 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.

(21) The Committee is concerned about shortcomings in the administration of justice, such as delays in the proceedings and in pre-trial detention, the lack of legal assistance provided to non-capital offenders and the conditions in which a confession may be secured. Despite the measures taken by the State party to address these situations, the Committee regrets that their continued existence contributes to a widespread sense of impunity as well as impairing the full enjoyment of guarantees (art. 14).

The State party should take steps to remedy shortcomings in the administration of justice in order to ensure full respect for the judicial guarantees enshrined in the Covenant. It should revise its legislation and practices, in particular with regard to the above-mentioned concerns.

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- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at para. 71(10).

(10) The Committee is concerned that there is no independent oversight mechanism for the investigation of complaints of criminal conduct against members of the police. This may contribute to impunity for police officers involved in human rights violations (arts. 2, 7 and 9).

The State party should establish an independent body with authority to receive, investigate and adjudicate all complaints of excessive use of force and other abuse of power by the police.

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at para. 72(9).

(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.

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at paras. 75(9) and 75(15).

(9) The Committee is concerned at the persistence of impunity for serious human rights violations, both before and after the [regime] changes of October 2000. Although the Committee appreciates the declared policy of the State party to carry out investigations and to prosecute perpetrators of past human rights violations, it regrets the scarcity of serious investigations leading to prosecutions and sentences commensurate with the gravity of the crimes committed (arts. 2, 6, 7).

The State party is under an obligation to investigate fully all cases of alleged violations of human rights, in particular violations of articles 6 and 7 of the Covenant during the 1990s and to bring to trial those persons who are suspected of involvement in such violations. The State party should also ensure that victims and their families receive adequate compensation for violations. Persons alleged to have committed serious violations should be suspended from official duties during the investigation of allegations and, if found guilty, dismissed from public service in addition to any other punishment.

...

(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

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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.

- Albania, ICCPR, A/60/40 vol. I (2004) 25 at para. 82(13).

(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.

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at para. 83(15).

(15) The Committee is concerned by allegations that abuse of the system of police custody, torture and cruel, inhuman or degrading treatment are common practice in Benin. It is disturbed by the fact that law enforcement officials who perpetrate such violations appear to enjoy widespread impunity (articles 2, 7 and 9 of the Covenant).

The State party should display greater firmness in preventing abuses of police custody, torture and ill-treatment, and should strengthen the training provided to law enforcement personnel in this area. It should automatically bring disciplinary and criminal proceedings against the perpetrators of violations and, in particular, should enforce Constitutional Court decisions in such cases. The Committee recommends that the State party...conduct an independent investigation of the methods in use in the “Petit Palais”.

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at para. 86(16).

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(16) The Committee is concerned about reports of extrajudicial killings perpetrated by police units (“flying squads”) or other law enforcement personnel. While noting the delegation’s intention to address this issue, it deplores the fact that few instances of unlawful killings by law enforcement officials have been investigated or prosecuted, and that *de facto* impunity for such acts continues to be widespread (articles 2, 6 and 7 of the Covenant).

The State party should promptly investigate reports of unlawful killings by police or law enforcement officers and prosecute those found responsible. The State party should actively pursue the idea of instituting an independent civilian body to investigate complaints filed against the police.

- Uzbekistan, ICCPR, A/60/40 vol. I (2005) 56 at para. 89(11).

(11) The Committee is concerned about allegations relating to widespread use of torture and ill-treatment of detainees and the low number of officials who have been charged, prosecuted and convicted for such acts. It is a matter of further concern that no independent inquiries are conducted in police stations and other places of detention to guarantee that no torture or ill-treatment takes place, apart from a small number of inquiries with external participation quoted by the delegation (Covenant, arts. 7 and 10).

The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. Those responsible should be prosecuted and punished in accordance with the seriousness of the crime committed. All places of detention should be subject to regular independent inspection. Provision should also be made for the medical examination of detainees, in particular persons held in pre-trial detention. The use of audio and video equipment in police stations and detention facilities should be considered.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(10), 95(13) and 95(15).

(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

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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.

...

(13) The Committee is concerned that the Emergency Decree on Government Administration in States of Emergency which came into immediate effect on 16 July 2005, and on the basis of which a state of emergency was declared in three southern provinces, does not explicitly specify, or place sufficient limits, on the derogations from the rights protected by the Covenant that may be made in emergencies and does not guarantee full implementation of article 4 of the Covenant. It is especially concerned that the Decree provides for officials enforcing the state of emergency to be exempt from legal and disciplinary actions, thus exacerbating the problem of impunity. Detention without external safeguards beyond 48 hours should be prohibited (art. 4).

The State party should ensure that all the requirements of article 4 of the Covenant are complied with in its law and practice, including the prohibition of derogation from the rights listed in its paragraph 2. In this regard, the Committee draws the attention of the State party to its general comment No. 29 and the obligations imposed upon the State party to inform other States parties, as required by its paragraph 3.

...

(15) The Committee is concerned about the persistent allegations of excessive use of force by law enforcement officials, as well as ill-treatment at the time of arrest and during police custody. The Committee is also concerned about reports of the widespread use of torture and cruel, inhuman or degrading treatment of detainees by law enforcement officials, including in the so-called "safe houses". It is also concerned at the impunity flowing from the fact that only a few of the investigations into cases of ill-treatment have resulted in prosecutions, and fewer, in convictions, and that adequate compensation to victims has not been provided (art. 2, 7, 9).

The State party should guarantee in practice unimpeded access to legal counsel and doctors immediately after arrest and during detention. The arrested person should have an opportunity immediately to inform the family about the arrest and place of detention. Provision should be made for a medical examination at the beginning and end of the detention period. Provision should also be made for prompt and effective remedies to allow detainees to challenge the legality of their detention. Anyone arrested or detained on a

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criminal charge must be brought promptly before a judge. The State party should ensure that all alleged cases of torture, ill-treatment, disproportionate use of force by police and death in custody are fully and promptly investigated, that those found responsible are brought to justice, and that compensation is provided to the victims or their families.

ICESCR

- Jamaica, ICESCR, E/2002/22 (2001) 130 at paras. 937 and 950.

937. The Committee is profoundly concerned about the violence that has apparently become widespread in the State party. It is reported that over 1,000 people have been murdered in the year 2001 alone and that "tribal" politics is such that warlords rule large sections of the capital city where they are involved in extortion, drugs and prostitution. The Committee is particularly concerned that violence - including domestic and sexual violence - is committed against women of all ages and against children. According to reports from non-governmental organizations, children are regularly flogged and even threatened with weapons and child-rearing practices include corporal punishment of children in the home and in schools. The fact that these acts are committed with impunity constitutes a serious violation by the State party of its Covenant obligations.

...

950. The Committee calls upon the State party to exercise the full authority of the law and all means at its command to eradicate the scourge of violence. The Committee reminds the State party that in undertaking measures to combat violence, respect for human dignity and protection of human rights must be ensured at all times...

- Georgia, ICESCR, E/2003/22 (2002) 60 at paras. 417 and 435.

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.

...

435. The Committee recommends that the State party implement its National Plan of 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...

- Brazil, ICESCR, E/2004/22 (2003) 28 at paras. 132, 142, 143, 156, 165 and 166.

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132. The Committee notes with concern the killing of landless farmers and the members of trade unions defending them and the impunity enjoyed by those responsible for committing these crimes.

...

142. The Committee is deeply concerned that the State party does not provide sufficient protection for indigenous peoples, who continue to be forcibly evicted from their lands and face threats to their lives and even execution. The Committee also notes with concern that the right of indigenous peoples to own land is not respected and that mineral, timber and other commercial interests have been allowed to expropriate, with impunity, large portions of land belonging to indigenous peoples.

143. The Committee is concerned about the forced eviction of the Quilombo communities from their ancestral lands, which are expropriated with impunity by mineral and other commercial interests.

...

156. The Committee urges the State party to take legal action against those who are responsible for committing crimes against landless farmers and members of trade unions and to take effective preventive measures to ensure protection to all farmers and members of trade unions.

...

165. The Committee calls upon the State party to ensure that indigenous peoples are effectively protected from threats and danger to their lives and from eviction from their lands. The Committee particularly urges the State party to seek the consent of the indigenous peoples concerned prior to the implementation of timber, soil or subsoil mining projects and any public policy affecting them, in accordance with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989).

166. The Committee urges the State party to adopt measures to guarantee the ancestral lands of the Quilombo communities and to ensure that any evictions are carried out in compliance with the guidelines set out in general comment No. 7 of the Committee (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions.

- Guatemala, ICESCR, E/2004/22 (2003) 59 at paras. 402 and 420.

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 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

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realization of economic, social and cultural rights enshrined in the Covenant, particularly with regard to indigenous peoples.

...

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.

CAT

- Benin, CAT, A/57/44 (2002) 19 at para. 34.

34. The Committee is concerned about the following:

...

(i) The danger that the Amnesty Law, adopted prior to the adoption of the Convention against Torture, might give rise to a situation of impunity.

- Indonesia, CAT, A/57/44 (2002) 22 at paras. 43 and 45.

43. The Committee is...concerned about:

(a) A climate of impunity, promoted in part by the fact that there has been little progress in bringing to trial members of the military, the police or other State officials, particularly those holding senior positions, who are alleged to have planned, commanded and/or perpetrated acts of torture and ill-treatment;

(b) The failure of the State party to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture reported to the authorities, as well as to prosecute alleged offenders, as required in articles 12 and 13 of the Convention;

...

45. The Committee recommends that the State party:

...

(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;

(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;

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...

- Zambia, CAT, A/57/44 (2002) 34 at paras. 63 and 66.

63. The Committee expresses concern about the continued allegations of widespread use of torture together with the apparent impunity enjoyed by its perpetrators.

...

66. The Committee recommends that the State party:

...

(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;

...

- Russian Federation, CAT, A/57/44 (2002) 42 at para. 91.

91. The Committee is deeply concerned over the following:

...

(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.

- Venezuela, CAT, A/58/44 (2002) 32 at para. 76.

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:

...

(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;

...

- Azerbaijan, CAT, A/58/44 (2003) 36 at paras. 88 and 89.

88. The Committee is concerned about:

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...

(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;

...

89. The Committee recommends that the State party:

...

(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;

...

- Cambodia, CAT, A/58/44 (2003) 40 at paras. 98 and 99.

98. The Committee is concerned about the following:

...

(d) Impunity for past and present violations of human rights committed by law enforcement officials and members of the armed forces and, in particular, the failure of the State party to investigate acts of torture and other cruel, inhuman or degrading treatment or punishment and to punish the perpetrators;

...

99. The Committee recommends that the State party:

...

(c) Ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities and the prosecution and punishment, as appropriate, of the perpetrators;

...

- 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 contributing to a culture of impunity among law enforcement officials;

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...

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;

...

- Bulgaria, CAT, A/59/44 (2004) 19 at paras. 32 and 33.

32. The Committee expresses concern about the following:

...

(b) Numerous allegations of ill-treatment of persons in custody, in particular during police interviews, which may amount to torture and which disproportionately affect the Roma;

(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;

...

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...

...

- Cameroon, CAT, A/59/44 (2003) 23 at paras. 42 and 46.

42. The Committee, while welcoming the effort made by the State party to transmit information relating to the prosecution of State officials responsible for violations of human rights, is concerned about reports of the impunity of perpetrators of acts of torture. It is particularly worried about:

(a) The fact that gendarmes can be prosecuted for offences committed in the line of duty only with the authorization of the Ministry of Defence;

(b) Reports that proceedings have actually been initiated against perpetrators of torture only in cases where the death of the victim was followed by public demonstrations;

(c) The fact that the case of the "Bépanda nine" remains unsolved;

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(d) The reluctance of victims or their relatives to lodge complaints, through ignorance, distrust or fear of reprisals;

(e) Reports that evidence obtained through torture is admissible in the courts.

...

46. The Committee recommends that the State should greatly increase its efforts to end the impunity of perpetrators of acts of torture, in particular by:

(a) Removing all restrictions, notably by the Ministry of Defence, on the prosecution of gendarmes and by giving the ordinary courts jurisdiction to try offences committed by gendarmes in the line of policy duty;

(b) Pursuing its inquiry into the case of the "Bépanda nine". The Committee also recommends a thorough investigation of the activities of the Douala operational command while it was in operation and, by extension, the activities of all anti-gang units that are still functioning;

(c) Ensuring that its authorities immediately undertake an impartial investigation whenever there is reasonable ground to believe that an act of torture has been committed. The Committee recommends an independent body with the authority to receive and investigate all allegations of torture and other ill-treatment at the hands of State employees;

(d) Ensuring the protection of victims and witnesses against any intimidation or ill-treatment, and by informing the public of their rights, notably with regard to complaints against State employees;

(e) Adopting, as soon as possible, and ensuring the practical enforcement of a law making evidence obtained under torture inadmissible in all proceedings.

- Chile, CAT, A/59/44 (2004) 28 at paras. 56 and 57.

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;

...

57. The Committee recommends that the State party should:

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...

(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;

...

- Colombia, CAT, A/59/44 (2003) 33 at paras. 64, 68 and 69.

64. ...[T]he Committee expresses its satisfaction at:

(a) The statement by the State party's representative that there neither has been nor will be any amnesty or clemency in the State party for acts of torture;

...

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

(a) The climate of impunity that surrounds human rights violations by State security forces and organs and, in particular, the absence of prompt, impartial and thorough investigation of the numerous acts of torture or other cruel, inhuman or degrading treatment or punishment and the absence of redress and adequate compensation for the victims;

(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

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exclude sexual offences from the jurisdiction of the military courts;

...

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:

(a) Take firm steps to end impunity for persons thought to be responsible for acts of torture or ill-treatment; carry out prompt, impartial and thorough investigations; bring the perpetrators of torture and inhuman treatment to justice; and provide adequate compensation for the victims. It recommends in particular that the State party reconsider in the light of its obligations under the Convention the adoption of the "alternative penalties" bill;

...

(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;

(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;

...

- Germany, CAT, A/59/44 (2004) 45 at paras. 91 and 92.

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;

...

92. The Committee recommends that:

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(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;

...

- Morocco, CAT, A/59/44 (2003) 58 at para. 127.

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;

(e) Take all necessary measures to eliminate impunity for public officials responsible for torture and cruel, inhuman or degrading treatment;

(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;

...

- Argentina, CAT, A/60/44 (2004) 12 at paras. 31, 34 and 35.

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

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

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

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investigated;

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

...

34. The Committee expresses its concern at the following:

(a) The many allegations of torture and ill-treatment committed in a widespread and habitual manner by the State's security forces and agencies, both in the provinces and in the federal capital;

(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;

...

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;

...

- Albania, CAT, A/60/44 (2005) 34 at paras. 83 and 84.

83. The Committee expresses concern:

...

(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

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(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;

...

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;

...

- Uganda, CAT, A/60/44 (2005) 39 at paras. 93 and 97.

93. The Committee is...concerned about:

...

(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;

...

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:

...

(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;

...

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- Bahrain, CAT, A/60/44 (2005) 44 at paras. 108 and 109.

108. The Committee expresses its concern at:

...

(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;

...

109. The Committee recommends that the State party:

...

(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;

...

CRC

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 329 and 330.

329. The Committee is...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:

...

(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;

...

- Romania, CRC, CRC/124 (2003) 49 at paras. 232 and 233.

232. The Committee is concerned at the high number of allegations of children being

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ill-treated and tortured by law enforcement officials received by the Special Rapporteur on the question of torture. The Committee regrets that the majority of these allegations have not been responded to and is concerned that they may not have been effectively investigated by an independent authority. Furthermore, the Committee is concerned that cooperation with the Special Rapporteur in this respect has been insufficient.

233. The Committee recommends that the State party:

(a) Investigate all allegations of torture and other cruel, inhuman or degrading treatment or punishment of children and make all efforts to cooperate fully with the Special Rapporteur on the question of torture;

...

(d) Take immediate measures to stop police violence against all children and challenge the prevailing culture of impunity for such acts;

...

- Jamaica, CRC, CRC/C/132 (2003) 86 at paras. 426 and 427.

426. The Committee is deeply concerned about:

(a) The generally violent environment in which Jamaican children are living;

(b) The stereotypical and discriminatory attitudes concerning the roles of women and children, including traditions of violence, abuse, including sexual abuse, and neglect.

427. The Committee urges the State party to strengthen considerably its efforts to address and condemn violence in society, including violence against women and children, particularly in the context of the family, as well as in schools and other environments. Further, it recommends that the State party take steps to monitor and address any incidents of violence and sexual or other abuse against children and take measures to ensure the rehabilitation of traumatized and victimized children by, *inter alia*:

...

(b) Taking all legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse, against children in all contexts in society, as well as taking effective measures for the prevention of violent acts committed within the family, in schools and by the police and other State agents, making sure that perpetrators of these violent acts are brought to justice, thereby putting an end to the practice of impunity;

...

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 65 and 66.

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65. The Committee notes that the 1997 Law on Torture, the Penal Code and the Statute of the Child and Adolescent (ECA) strongly prohibit torture and ill-treatment. Nevertheless, the Committee is deeply concerned by the gap existing between the law and its implementation, as a significant number of cases of torture, inhuman and degrading treatment have been reported over the last years, including by the Special Rapporteur on the question of torture (E/CN.4/2001/66/Add.2)

66. The Committee urges the State party to implement fully its legislation and to take into account the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, in particular with regard to effective measures to combat impunity...

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 237 and 238.

237. The Committee notes the measures undertaken by the State party to improve domestic legislation with regard to minority rights, e.g. the Constitutional Law on the Rights of National Minorities, but remains concerned that these legal instruments are not effectively implemented. It is also concerned about continuing problems of ethnic discrimination and intolerance, particularly concerning the Roma and other minority groups, e.g. Serbs and Bosniaks.

238. The Committee reiterates its recommendation that the State party should take effective measures to encourage the protection of the rights of children belonging to minority groups and eliminate the impunity enjoyed by those who harass these groups. It also recommends that the State party undertake special measures to stimulate a process of reconciliation and confidence-building, including wide-ranging educational and awareness-raising campaigns.

- Albania, CRC, CRC/C/146 (2005) 19 at paras. 115 and 116.

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

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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.

- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 708 and 709.

708. The Committee is deeply concerned about:

(a) Traditional and discriminatory attitudes and behaviour towards women and children, contributing to violence, abuse, including sexual abuse, neglect, killing, torture and extortion;

(b) Generally high level of acceptance of domestic violence among law enforcement officials and court personnel; and

(c) Lack of adequate measures taken by the State party to prevent and combat violence, abuse and neglect against women and children.

709. The Committee urges the State party to strengthen considerably its efforts to prevent and combat violence in society, including violence against women and children, in the context of the family, as well as in schools and other environments. In this regard, the Committee recommends the State party to take the following specific actions:

...

(b) Take all legislative measures to prohibit all forms of physical and mental violence, including sexual abuse, against children in all contexts in society, as well as take effective measures for the prevention of violent acts committed within the family, in schools and by the police and other State agents, making sure that perpetrators of these violent acts are brought to justice, putting an end to the practice of impunity;

...

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 291 and 293.

291. The Committee notes the extremely negative impact of the armed conflict between the State party and the Communist Party of Nepal (the Maoists) on children in Nepal, and that it has created conditions in which even minimal implementation of the Convention is difficult. The Committee notes that the climate of fear, insecurity and impunity resulting from the armed conflict and the states of emergency, declared in 2000 and 2004, have had

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a seriously negative physical and psychological impact on the sound development of children in the State party...

...

293. While noting the *de facto* control by non-State actors of areas of the State party's territory, the Committee emphasizes the full responsibility of the State party, and urges the Communist Party of Nepal (the Maoists) to respect child rights within the areas in which they operate. The Committee reminds the State party of its obligation to respect the Convention at all times and not to derogate from any of its provisions, even in exceptional circumstances, including the state of emergency. The Committee further recommends the State party to take stronger measures to combat impunity with regard to violence against children.