

## **LEGAL RIGHTS - CRIMINAL - Conditions of Arrest and Detention**

### **IV. CONCLUDING OBSERVATIONS**

#### **CERD**

- Croatia, CERD, A/48/18 (1993) 90 at para. 498.

The practices of illegal and arbitrary detention, disappearance, torture, deaths in custody and other human rights abuses by armed and paramilitary forces are of concern. Reports of prisons run by private groups who take non-ethnic Croatians into custody for the purpose of exchanging them for ethnic Croatians held by other forces are also of concern.

- France, CERD, A/49/18 (1994) 20 at para. 144.

Concern is expressed that the implementation of the immigration and asylum laws could have racially discriminatory consequences, particularly in connection with the imposition of limitations on the right of appeal against expulsion orders and the preventive detention of foreigners at points of entry for excessively long periods. Concern is also expressed that these laws may generate or reinforce a xenophobic atmosphere in French society.

- Sudan, CERD, A/49/18 (1994) 68 at para. 477.

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

- Australia, CERD, A/49/18 (1994) 78 at para. 543.

Concern is expressed that Aboriginals continue to die in custody at a rate comparable to that which led to the appointment of the Royal Commission.

- Russian Federation, CERD, A/51/18 (1995) 25 at para. 143.

The use of excessive and disproportionate force in suppressing the attempted secession in Chechnya, resulting in unnecessary civilian casualties, is a matter of very grave concern. Reports of arbitrary

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arrests, ill-treatment of detainees, excessive destruction of civilian property and pillage in Chechnya also give rise to concern.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/51/18 (1996) 35 at para. 232.

In connection with article 5 of the Convention, it is noted with serious concern that among the victims of death in custody are a disproportionate number of members of minority groups, that police brutality appears to affect members of minority groups disproportionately, that allegations of police brutality and harassment are reportedly not vigorously investigated and perpetrators, once guilt is established, are not appropriately punished.

- Venezuela, CERD, A/51/18 (1996) 65 at para. 472.

Concern is expressed that in practice there are separate prison facilities for persons of the indigenous population.

- Iraq, CERD, A/52/18 (1997) 37 at para. 268.

The State party should comply with the relevant Security Council resolutions calling for the release of all Kuwaiti nationals and nationals of other States who might still be held in detention, and to provide all available information on missing individuals of such States.

- Israel, CERD, A/53/18 (1998) 30 at para. 83.

Profound concern is expressed that detained persons of Arab ethnic origin are disproportionately subjected to inhuman and degrading interrogation under the Landau Commission rules and that the Supreme Court has failed to declare this illegal.

- Italy, CERD, A/54/18 (1999) 19 at paras. 128 and 129.

### *Paragraph 128*

Concern is expressed about the apparent lack of appropriate training for law enforcement officials and other public officials regarding the provisions of the Convention in connection with reports of acts of violence and ill-treatment against foreigners and members of minorities in detention.

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### *Paragraph 129*

The State party should strengthen its efforts towards preventing and prosecuting incidents of racial intolerance and discrimination against foreigners and Roma people, as well as ill-treatment of foreigners and Roma in detention.

- Australia, CERD, A/55/18 (2000) 17 at para. 39.

Concern is expressed about the minimum mandatory sentencing schemes with regard to minor property offences. The mandatory sentencing schemes appear to target offences that are committed disproportionately by indigenous Australians, especially juveniles, leading to a racially discriminatory impact on their rate of incarceration. The Committee seriously questions the compatibility of these laws with the State party's obligations under the Convention and recommends that the State party review all laws and practices in this field.

- Rwanda, CERD, A/55/18 (2000) 31 at paras. 145-147 and 150.

### *Paragraph 145*

It is noted that given the nature of the recent genocide, the majority of the large number of imprisoned or detained persons belong to the Hutu ethnic group. Concern is expressed over the poor conditions of detention and imprisonment and the mortality rate of detained and imprisoned persons. It is recommended that the State party continue its efforts to respect minimum standards of detention.

### *Paragraph 146*

The State party is urged to take further measures to reduce periods of pre-trial detention and to ensure that the right to equal treatment before the law, as defined in article 5 (a) of the Convention, is respected in national and customary judicial proceedings.

### *Paragraph 147*

The State party's past efforts to introduce "screening" practices, such as the Commissions de Triage, as an additional means of providing an early release from detention of those persons against whom there is little recorded evidence of criminal offences are noted. It is recommended that the State party recommence such efforts and ensure that the population is well informed of these procedures so that those persons who are released are able to reintegrate into their communities safely. Amnesty should be extended to lesser offenders who confess to their crimes.

### *Paragraph 150*

The State party's efforts to establish a specialized centre for juveniles accused of participating in the genocide is recognized. Concern remains about the detrimental effect upon children of long periods of detention. While taking into consideration the very serious and tragic acts of which these juveniles

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are accused, it is nevertheless recommended that the State party make every effort to reintegrate such juveniles into the community as soon as is possible.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/55/18 (2000) 60 at para. 359.

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

### **ICCPR**

- Korea, ICCPR, A/47/40 (1992) 113 at para. 516.

The conditions under which prisoners are being re-educated do not constitute rehabilitation in the normal sense of the term and the amount of coercion utilized in that process could amount to an infringement of the provisions of the Covenant relating to freedom of conscience.

- Burundi, ICCPR, A/48/40 vol. I (1993) 16 at para. 79.

The absence of legal provisions prohibiting illegal detention and of a *habeas corpus* procedure seriously undermine the rights to liberty and security of the person as set forth in article 9 of the Covenant.

- Senegal, ICCPR, A/48/40 vol. I (1993) 23 at paras. 104 and 112.

#### *Paragraph 104*

The right of access to legal counsel begins from the moment an individual is deprived of his freedom. Concern was expressed over the fact that detainees could be held without charge for up to eight days, even though article 55 of the Penal Code offered some protection in such situations.

#### *Paragraph 112*

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The Committee does not agree with the Government's contention that the provisions of the Covenant must be interpreted and applied against the background of the conditions prevailing in the country. Rather, all efforts should be made to bring those conditions into conformity with internationally agreed human rights standards. Certain provisions of penal legislation are not in conformity with article 6 of the Covenant, especially in respect of the application of the death penalty to minors, or with article 9 of the Covenant, particularly in so far as they allow detainees to be kept incommunicado during the first eight days following arrest and deprived of access to a lawyer for the period of arrest.

- Luxembourg, ICCPR, A/48/40 vol. I (1993) 30 at paras. 133, 142 and 144.

### *Paragraph 133*

The practice of including a suspension of voting rights as part of sentencing raised a number of problems under article 21 of the Covenant. Members also expressed concern over practices in Luxembourg regarding the application of isolation to detainees including, in particular, the length of isolation, the prohibition of reading materials to isolated detainees and the fact that they were allowed only one hour out of their cell each day for exercise. It was also noted that the use of preventive detention should not become routine nor should it lead to excessive periods of detention or infringe upon the presumption of innocence.

### *Paragraph 142*

The present practices pertaining to solitary confinement are of concern. Additionally there is no remedy available with regard to the decision of the Prosecutor General to apply solitary confinement. Another area of concern is the application of pre-trial detention which may lead to excessive periods of detention and which may infringe upon the presumption of innocence.

### *Paragraph 144*

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

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at paras. 258 and 266.

### *Paragraph 258*

There are serious questions about requiring repentance from detainees as a condition of their release from custody.

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### *Paragraph 266*

Effective measures should be adopted to ensure the strictest observance of articles 7 and 10 of the Covenant. All complaints of extrajudicial executions, disappearances, torture and ill-treatment should be duly investigated, the culprits should be punished and measures should be taken to prevent any recurrence of such acts. Severe forms of punishment incompatible with the Covenant should be removed from law and practice and the conditions of detention of persons deprived of their liberty should be improved. Training courses should be organized for members of the police, the armed forces and the security forces as well as for other law enforcement officials, so as to better acquaint them with basic human rights principles and norms.

- Venezuela, ICCPR, A/48/40 vol. I (1993) 61 at paras. 308 and 310.

### *Paragraph 308*

It is of concern that custody can last as long as 16 days and it is emphasized that it is precisely during such periods that accused persons are most vulnerable, in particular to acts of torture or ill-treatment.

### *Paragraph 310*

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

- Bosnia and Herzegovina, ICCPR, A/48/40 vol. I (1993) 69 at para. 332.

The measures already taken by the Republic should be further intensified and systematically monitored so as to ensure that ethnic cleansing does not take place, whether as a matter of revenge or otherwise; that prisoners are not taken for the purpose of eventual exchange of prisoners; that all places of detention are officially proclaimed; that records of all people detained are kept and made public; and that such places of detention are open to visits by the International Committee of the Red Cross and the families of the people detained. All places of detention that do not comply with these conditions should be immediately dismantled. Administrative arrangements should be made to enable persons to retrace members of their family who have disappeared and prompt investigations should take place to bring all those responsible for violations to trial.

- Croatia, ICCPR, A/48/40 vol. I (1993) 75 at paras. 361 and 362.

### *Paragraph 361*

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It is believed that there were in Croatia undesignated places of detention where persons were held, often by private groups. Many persons for whom there was no legitimate cause of detention were unlawfully held. Sometimes they were deprived of their liberty simply in order to be able to effect exchanges for Croatians held as prisoners elsewhere.

### *Paragraph 362*

Strong efforts should be made to identify undeclared places of detention and to ensure that only *bona fide* prisoners of war are held in properly notified camps operating in accordance with the Geneva Conventions of 1949 and the Covenant.

- Dominican Republic, ICCPR, A/48/40 vol. I (1993) 95 at paras. 461 and 465.

### *Paragraph 461*

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

### *Paragraph 465*

Measures should be undertaken immediately to reduce the backlog of persons in detention awaiting trial and the number of exceptions to the 48-hour rule should be significantly reduced.

- Uruguay, ICCPR, A/48/40 vol. I (1993) 102 at paras. 504 and 508.

### *Paragraph 504*

It is noted with concern that the regulations relating to pre-trial detention are not in conformity with article 9 of the Covenant. In this regard, it is underlined that, in accordance with the principle of the presumption of innocence, release should be the rule and not the exception as is the case under the current system.

### *Paragraph 508*

Detention procedures should be revised with a view to facilitating a full application of the rights provided for under the Covenant. In particular, the penal procedure should be reformed so that it is based on the principle of the presumption of innocence. The State party should ensure that adequate remedies are available with regard to *habeas corpus* under article 9 of the Covenant. There should be significantly less reliance on the use of pre-trial detention, particularly in view of the fact that some

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abuses during detention have occurred.

- Ireland, ICCPR, A/48/40 vol. I (1993) 119 at para. 606.

The segregation of juvenile offenders is required under the Covenant as well as compliance with strict standards for male and female offenders.

- Hungary, ICCPR, A/48/40 vol. I (1993) 128 at para. 661.

The provisions of Hungarian legislation relating to pre-trial detention and the procedure for bringing a defendant to trial, and the excessive duration of pre-trial detention are matters of concern. These norms do not fully conform with the relevant provisions of articles 9 and 14 of the Covenant.

- Egypt, ICCPR, A/48/40 vol. I (1993) 139 at para. 707.

Concern is expressed about the duration and conditions of police custody and administrative detention in Egypt which are likely to expose accused persons to torture and ill-treatment by the police and security forces, as demonstrated by numerous allegations reported by reliable non-governmental sources of information.

- Japan, ICCPR, A/49/40 vol. I (1994) 23 at paras. 109, 110 and 116.

### *Paragraph 109*

There are matters of concern relating to conditions of detainees. In particular, the undue restrictions on visits and correspondence and the failure of notification of executions to the family are incompatible with the Covenant.

### *Paragraph 110*

It is of concern that the guarantees contained in articles 9, 10 and 14 are not fully complied with, in that pre-trial detention sometimes takes place in cases where the conduct of the investigation does not require it; the detention is not promptly and effectively brought under judicial control and is left under the control of the police; most of the time interrogation does not take place in the presence of the detainee's counsel, nor do rules exist to regulate the length of interrogation; and the substitute prison system (*Daiyo Kangoku*) is not under the control of an authority separate from the police. In addition, the legal representatives of the defendant do not have access to all relevant material in the police record, in order to enable them to prepare the defence.



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### *Paragraph 116*

With a view to guaranteeing the full application of articles 9, 10 and 14 of the Covenant, pre-trial procedures and the operation of the substitute prison system (*Daiyo Kangoku*) should be made compatible with all requirements of the Covenant and, in particular, all the guarantees relating to the facilities for the preparation of the defence should be observed.

- Costa Rica, ICCPR, A/49/40 vol. I (1994) 31 at para. 160.

Existing measures to protect the rights of detainees should be strengthened. In this connection, the importance of closely monitoring pre-trial detention and the need for prompt investigation into reports of abuse is emphasized. The importance of adequate training for the police and other security forces and prison personnel with respect to the relevant provisions of the Covenant as well as other applicable international human rights standards, including the Standard Minimum Rules for the Treatment of Prisoners is stressed.

- Cameroon, ICCPR, A/49/40 vol. I (1994) 36 at para. 194.

That brutality is practised in prisons, and that non-respect for the provisions of article 10 of the Covenant in detention centres where men and women, convicted and unconvicted prisoners, adult and juvenile offenders are held in the same, generally insalubrious, cells is deplored.

- Jordan, ICCPR, A/49/40 vol. I (1994) 41 at paras. 234 and 241.

### *Paragraph 234*

The Committee is concerned that the guarantees contained in articles 7, 9, 10 and 14 of the Covenant are not fully complied with. In particular, it is of concern that torture and ill-treatment of persons deprived of liberty continue to be reported. Cases of administrative detention, denial of access of detainees to legal counsel, long periods of pre-trial detention without charges and incommunicado detention are also matters of great concern. Particular concern is expressed at conditions of detention in the General Intelligence Department headquarters.

### *Paragraph 241*

The detention premises controlled by the Central Intelligence Department should be placed under close supervision of the judicial authorities; necessary measures should be taken to make sure that torture, ill-treatment and illegal detention do not occur and any such cases should be investigated in order to bring those suspected of having committed such acts before the courts and to punish them if found guilty. Measures of administrative detention and incommunicado detention should be restricted to very limited and exceptional cases, and the guarantees concerning pre-trial detention

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provided for in article 9, paragraph 3, of the Covenant should be implemented.

- Togo, ICCPR, A/49/40 vol. I (1994) 44 at para. 265.

Measures should be taken to ensure the implementation of all provisions of article 10 of the Covenant together with the United Nations Standard Minimum Rules for the Treatment of Prisoners in prisons and detentions centres. They should be more widely disseminated and observed, particularly among the personnel of the armed forces, security and police officers involved in arrest and detention matters, as well as members of the judiciary.

- Italy, ICCPR, A/49/40 vol. I (1994) 47 at para. 279.

The duration of preventive detention as provided for under the law and which does not appear to be compatible with the requirements of articles 9 and 14 of the Covenant is of concern. Delays in judicial proceedings remain worrisome despite attempts to reduce them. The various problems faced in the administration of prisons and other detention centres, particularly overcrowding, are also of concern.

- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at para. 329.

The length of pre-trial detention should be significantly shortened and adequate training should be provided for all law enforcement officials to promote observance of the protection afforded by the Covenant. Instructions on the use of force by police should be updated to conform with the requirements of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

- Slovenia, ICCPR, A/49/40 vol. I (1994) 56 at para. 343.

The length of pre-trial detention, which may extend up to six months under certain circumstances, does not comply with the requirements of articles 9 and 14 of the Covenant.

- Argentina, ICCPR, A/50/40 vol. I (1995) 35 at paras. 157 and 163.

### *Paragraph 157*

The system of pre-trial detention, which is considered to be one of the remaining vestiges of

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authoritarian rule, is of concern. It is also of concern that persons may be detained for a period longer than the maximum penalty allowed by law and it is regrettable, in this connection, that article 317 of the Constitution does not order their release. It is further noted that bail is established according to the economic consequences of the crime committed and not by reference to the probability that the defendant will not appear in court or otherwise impede due process of law. It is incompatible with the presumption of innocence that the length of pre-trial detention is set by reference to the possible length of sentence rather than by the complexity of the case. It is also of concern that accused persons are held in detention in the same facilities as convicted persons, and that the grounds for judicial authorization of telephone tapping may be too broadly drawn.

### *Paragraph 163*

With respect to the Code of Criminal Procedure, the system of pre-trial detention should be carefully reviewed. Legal safeguards should be established to ensure that, in instances where pre-trial detention exceeds the maximum applicable penalty for a crime, the defendant will be released without qualification. The purpose of pre-trial detention should be clearly defined and the length of detention should be set accordingly, applying the principle of presumption of innocence. The same consideration should be given in setting bail.

- New Zealand, ICCPR, A/50/40 vol. I (1995) 38 at paras. 179 and 186.

### *Paragraph 179*

The provisions in the Criminal Justice Amendment Act which provide for a sentence of indeterminate detention for offenders convicted of serious crimes who are likely to repeat such crimes are of concern. The imposition of punishment in respect of possible future offences is inconsistent with articles 9 and 14 of the Covenant.

### *Paragraph 186*

The State party should revise the provisions relating to "indeterminate sentence of preventive detention" contained in the Criminal Justice Amendment Act in order to bring the Act into full consistency with articles 9 and 14 of the Covenant.

- Paraguay, ICCPR, A/50/40 vol. I (1995) 42 at paras. 210 and 217.

### *Paragraph 210*

The practice of not separating accused from convicted persons in prisons, which violates article 10, paragraph 2 (a), of the Covenant, is noted with concern. It is also of concern that there are insufficient measures to limit pre-trial detention, which makes such detention a common practice rather than an exceptional measure. The conditions in the law do not provide sufficient justification for pre-trial detention in the absence of a reasonable possibility of escape from justice or danger to

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the community.

### *Paragraph 217*

To comply with article 10, paragraph 2 (a), of the Covenant the State party should separate accused persons from convicted prisoners in prison. The State party should further review its laws and practices concerning pre-trial detention to ensure that such detention is not regarded as the general rule and that, where it is imposed, its period is subject to strict limits, in conformity with article 4 of the Covenant.

- Haiti, ICCPR, A/50/40 vol. I (1995) 46 at para. 233.

The numerous problems affecting the proper functioning of the justice system, including long periods of pre-trial detention and overcrowding of prisons, are of concern. In this regard, unless a serious effort is undertaken to reform the judiciary and re-establish the proper functioning of the judicial system, efforts to strengthen the rule of law and to promote respect for human rights will be seriously undermined.

- United States of America, ICCPR, A/50/40 vol. I (1995) 52 at paras. 285 and 299.

### *Paragraph 285*

Concern is expressed over the conditions of detention of persons deprived of liberty in federal or state prisons, particularly with regard to planned measures which would lead to further overcrowding of detention centres. The Committee is also concerned at the practice which allows male prison officers access to women's detention centres, and which has led to serious allegations of sexual abuse of women and the invasion of their privacy. The conditions of detention in certain maximum security prisons, which are incompatible with article 10 of the Covenant and run counter to the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials, are of particular concern.

### *Paragraph 299*

Legislative, prosecutorial and judicial policy in sentencing must take into account that overcrowding in prisons causes violation of article 10 of the Covenant. Existing legislation that allows male officers access to women's quarters should be amended so as to provide at least that they will always be accompanied by women officers. Conditions of detention in prisons, in particular in maximum security prisons, should be scrutinized with a view to guaranteeing that persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person, and implementing the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials therein.

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- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at paras. 317, 318 and 328.

### *Paragraph 317*

Cases of administrative detention, in particular of vagrants, denial of access of detainees to legal counsel and long periods of pre-trial detention are matters of great concern.

### *Paragraph 318*

Concern is expressed over the conditions in places of detention, whether in prisons or curative labour establishments, which do not comply with article 10 of the Covenant or other international standards. Prison overcrowding is a further matter of concern.

### *Paragraph 328*

Prison conditions should be brought into compliance with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

- Latvia, ICCPR, A/50/40 vol. I (1995) 62 at para. 347.

The allegations of mistreatment of detainees and the conditions in places of detention, which do not comply with article 10 of the Covenant or other international standards, are of concern. The apparent non-separation of accused persons from convicted persons and juveniles from adults is a further matter of concern. The Committee is especially concerned that there do not seem to be clear mechanisms for dealing with complaints of violence by law enforcement authorities and of conditions in detention centres and prisons.

- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at paras. 377, 378, 389, 396, 403 and 404.

### *Paragraph 377*

Deep concern is expressed over the practice of pre-trial detention and over the fact that temporary detention has been extended from 10 to 30 days in certain cases. The extent of the Procurator's competence to decide on matters relating to arrest or detention, which cannot be challenged by the person concerned before a court, is of concern. Under article 9, paragraph 3 of the Covenant, the detention of persons before they are granted a trial should not be the norm and, when it occurs, persons so detained should be granted a trial within a reasonable time or be released. It is of concern that pre-trial detention is practised not only in cases of serious criminal charges, but more so on misdemeanour charges and frequently for unreasonably long periods of time, and that no effective mechanism exists for monitoring such detention.

### *Paragraph 378*

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Grave concern is expressed over the lack of a monitoring mechanism for penitentiary facilities to ensure humane treatment of detainees and prisoners. In this regard, the cruel, inhumane and degrading conditions that persist in many detention centres and penitentiary facilities is deplored and the use of food deprivation as punishment is condemned.

### *Paragraph 389*

The excessive and disproportionate use of force by Russian forces in Chechnya, indicating grave violation of human rights is deplored. The fact that no one has been made responsible for the inhumane treatment of prisoners and other detained persons is further deplored.

### *Paragraph 396*

The treatment of persons deprived of their liberty, whether in detention centres or in penitentiary facilities, should be effectively monitored. In this connection, it is strangely recommended that new rules and regulations that comply fully with articles 7, 9, 10 and 14 of the Covenant and the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the texts of all prison rules and orders and international norms on prison administration be adopted be made public and accessible. It is recommended that priority be given to the establishment of the Visitors' Committee for the correctional institutions of the Federation and that legislation on the judicial review of arrest and detention be urgently passed in compliance with article 9, paragraph 3, of the Covenant, and article 22, paragraph 2, of the Constitution. The Government is urged to refrain from placing first-time, non-violent and petty offenders in detention centres, and give consideration to various other practical measures designed to reduce the overcrowding of pre-trial detention centres, particularly the greater use of release pending trial. An immediate end to the practice of food deprivation as punishment in prisons is called for and the Government's initiatives to institute alternative forms of punishment are encouraged.

### *Paragraph 403*

The Government should ensure that all persons held in detention are held for legitimate cause, for a reasonable period of time and under humane conditions, in conformity with the State party's obligations under the Covenant.

### *Paragraph 404*

While noting with appreciation the Government's assurances that the International Committee of the Red Cross (ICRC) will be granted access to all detention camps, such access should be granted immediately in the region of Chechnya and neighbouring republics, to allow ICRC not only to monitor the treatment of detainees but also to provide supplies and services.

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/50/40 vol. I (1995) 72 at paras. 418, 419, 422 and 431.

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### *Paragraph 418*

The powers under provisions permitting infringements of civil liberties, such as of extended periods of detention without charge or access to legal advisers, entry into private property without judicial warrant, imposition of exclusion orders within the United Kingdom, etc., are excessive. Note is taken of the Government's own admission that conditions at the Castlereagh detention centre in Northern Ireland are unacceptable and concern is therefore expressed at the Government's admission that it has not decided definitively to close the facility. Reports regarding the continuation of the practice of strip searching male and female prisoners in the context of the low security risk that now exists in the country and in view of the existence of adequate alternative search techniques are disturbing.

### *Paragraph 419*

Despite the recent improvements in prison conditions in the United Kingdom, the high number of suicides of prisoners, especially among juveniles is disturbing.

### *Paragraph 422*

It is observed that the incarceration of persons ordered to be deported and particularly the length of their detention may not be necessary in every case.

### *Paragraph 431*

The State party should ensure that all those who are involved in the detention of prisoners be made fully aware of the international obligations on the State party concerning the treatment of detainees, including the United Nations Standard Minimum Rules for the Treatment of Prisoners.

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at paras. 452, 453 and 568.

### *Paragraph 452*

The undetermined detention which may be ordered by the Secretary of the Ministry of Defence violates the Covenant, particularly when such detention can be challenged only one year after detention. In view of this, the effectiveness of the *habeas corpus* remedy in respect of those arrested under the Prevention of Terrorism Act is of concern.

### *Paragraph 453*

It is of concern that the rights under article 10 of the Covenant of persons deprived of their liberty in prisons and other places of detention are not fully respected. It is regretted that the conditions in places of detention other than prisons are not regulated by law and that prisons and other places of detention are not regularly visited by magistrates or other independent bodies.

### *Paragraph 468*

With regard to articles 9 and 10 of the Covenant, all legal provisions or executive orders should be reviewed, as a matter of priority, to ensure their compatibility with the provisions of the Covenant

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and their effective implementation in practice.

- Estonia, ICCPR, A/51/40 vol. I (1996) 19 at paras. 117, 118 and 131.

### *Paragraph 117*

The cases regarding the excessive use of force by law enforcement officials as well as mistreatment of detainees are of concern. It is of particular concern that punitive measures, such as solitary detention, may be imposed on juvenile detainees. It is noted that the law enforcement system will only be able to function properly when a sufficient number of well-trained police and prison officers are appointed.

### *Paragraph 118*

The Committee is deeply concerned that, as confirmed by the State party in paragraph 79 of its report: "Prison facilities are overcrowded and many inmates are subject to unhealthy living conditions".

### *Paragraph 131*

Immediate steps should be taken to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person, in conformity with articles 7 and 10 of the Covenant.

- Spain, ICCPR, A/51/40 vol. I (1996) 24 at paras. 178, 180 and 184.

### *Paragraph 178*

The maintenance on a continuous basis of special legislation under which persons suspected of belonging to or collaborating with armed groups may be detained incommunicado for up to five days, may not have a lawyer of their own choosing and are judged by the Audiencia Nacional without possibility of appeal is of concern. It is noted with concern that the duration of pre-trial detention can continue for several years and that the maximum duration of such detention is determined according to the applicable penalty.

### *Paragraph 180*

The poor prison conditions that exist in most prisons, generally resulting from overcrowding and depriving those detained of the rights guaranteed in article 10 of the Covenant is deplored.

### *Paragraph 184*

The use of incommunicado detention should be abandoned, the duration of pre-trial detention should be reduced and the duration of the applicable penalty should not be used as a criterion for determining



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the maximum duration of pre-trial detention.

- Zambia, ICCPR, A/51/40 vol. I (1996) 29 at paras. 199 and 211.

### *Paragraph 199*

The Committee welcomes the establishment of the National Committee on Penal Reform. It is, however, greatly concerned at the poor conditions in places of detention and the lack of implementation of guarantees in article 10 of the Covenant as well as in the United Nations Standard Minimum Rules for the Treatment of Prisoners.

### *Paragraph 211*

Steps should be taken in law and in practice to implement fully the provisions of article 10 of the Covenant as well as United Nations Standard Minimum Rules for the Treatment of Prisoners, and to make relevant laws and regulations governing the treatment of persons deprived of their liberty, known and accessible to the prisoners themselves, as well as to the police, armed forces, prison personnel and other persons responsible for holding interrogation. Urgent steps should be taken to reduce the number of prisoners through the review of sentences, by speeding up trials or otherwise.

- Nigeria, ICCPR, A/51/40 vol. I (1996) 37 at paras. 260, 285, 286, 299 and 300.

### *Paragraph 260*

Incommunicado detention for an indefinite period and the suppression of *habeas corpus* constitute violations of article 9 of the Covenant.

### *Paragraph 285*

The poor conditions in places of detention including severe overcrowding, and the lack of sanitation, adequate food, clear water and health care, all of which contribute to a large number of deaths in custody, is disturbing. It is incompatible with the Covenant to hold prisoners under conditions which do not meet the basic guarantees provided in article 10 of the Covenant as well as in the United Nations Standard Minimum Rules for the Treatment of Prisoners, despite the State party's adoption of prison regulations and the Prisons Act (1990).

### *Paragraph 286*

The large number of persons detained without charge, and the lengthy periods of pretrial detention which are incompatible with article 9 of the Covenant, are of concern. It is of particular concern that incommunicado detention is commonly ordered and often for indefinite periods and without access to judicial review, in violation of article 9.

### *Paragraph 299*

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Urgent steps should be taken to release all persons who have been detained arbitrarily or without charges and to reduce the period of pre-trial detention. The practice of incommunicado detention should cease.

### *Paragraph 300*

All necessary measures should be taken to ensure that the conditions of detention of persons deprived of their liberty fully meet article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The overcrowding of prisons should be reduced by overcoming delays in the trial process, by considering alternative forms of punishment, or by expanding the number of prison places.

- Brazil, ICCPR, A/51/40 vol. I (1996) 44 at paras. 314, 326 and 330.

### *Paragraph 314*

The intolerable conditions in prisons and jails, including first and foremost overcrowding, is of deep concern. The fact that some convicted persons are not released immediately at the end of their imposed sentences and that fear of reprisals by prison authorities or individual warders inhibits complaints by prisoners and detainees is deplored.

### *Paragraph 326*

Immediate steps should be taken to ensure that convicted persons are released without delay on completion of their sentences.

### *Paragraph 330*

It is the duty of the State party to ensure that all persons deprived of their liberty are treated with humanity and respect for the inherent dignity of the human person. Measures to reduce overcrowding might include adoption of alternative sentencing measures that would allow some convicted persons to serve their sentences in the community. To the extent that overcrowding cannot be solved by reducing the number of persons imprisoned or detained, the State party is obligated to commit greater resources to enlarge the capacity of the penitentiary system. Steps must also be taken to ensure that effective programmes are in place for the social rehabilitation and reformation of prison inmates.

- Peru, ICCPR, A/51/40 vol. I (1996) 48 at paras. 355, 356 and 361.

### *Paragraph 355*

Attention is drawn to the legislation which permits incommunicado detention in certain cases. In this

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connection, it is reiterated that incommunicado detention is conducive to torture and that, consequently, the practice should be avoided.

### *Paragraph 356*

It is noted with concern that provisions in article 2, paragraph 24 (f), of the Constitution, which permit preventive detention for up to 15 days in cases of terrorism, espionage and illicit drug-trafficking, as well as Decree Law 25,475, which authorizes extension of preventive detention in certain cases for up to 15 days, raise serious issues with regard to article 9 of the Covenant.

### *Paragraph 361*

Urgent measures should be taken to strictly limit incommunicado detention.

- Switzerland, ICCPR, A/52/40 vol. I (1997) 19 at paras. 98, 99 and 109-111.

### *Paragraph 98*

It is regretted that in various cantons, detainees may be held incommunicado for periods ranging from 8 to 30 days or even, in some cases, for indefinite periods. The non-existence in most cantons of legal guarantees, such as the possibility for a detainee to contact a lawyer immediately after his arrest and to be examined by an independent doctor at the commencement of police custody and before he appears before the examining magistrate, is also regretted. It is also noted that it seems very difficult in practice for most persons who have been arrested to inform their family or friends as soon as they are arrested.

### *Paragraph 99*

On the question of pre-trial detention, it is noted with concern that often, when remand prisons are full, detainees are kept, in some cases for several days, in police cells, where conditions of detention are manifestly inadequate for periods in excess of 24 hours.

### *Paragraph 109*

Discussions aimed at harmonizing the various cantonal laws on criminal procedure should be intensified, with due respect for the provisions of the Covenant, particularly with regard to fundamental guarantees during police custody or incommunicado detention. The Committee emphasizes in particular the need to allow suspects to contact a lawyer and their family or friends and to have suspects examined by an independent doctor as soon as they are arrested, after each period of questioning and before they are brought before the examining magistrate or released. Independent machinery, subject to public supervision, should be introduced in all cantons to receive complaints against police officers concerning ill-treatment during custody.

### *Paragraph 110*

All necessary measures should be taken to ensure that accused persons are not detained for several

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days in police premises.

### *Paragraph 111*

The Act relating to coercive measures should be implemented in a restrictive manner and in the spirit of the Covenant, so as to ensure that the length of detention applicable under the Act is as short as possible and that the judicial review of the detention decision or the decision to extend detention is carried out in less than 96 hours. All possible measures should be taken to ensure that foreigners who are covered by that Act are informed of the remedies available to them and are assisted by counsel in a language they understand.

- Gabon, ICCPR, A/52/40 vol. I (1997) 24 at paras. 130, 138 and 139.

### *Paragraph 130*

Concern is expressed over the "dilapidated state of jail cells" and the insufficient measures taken to provide law enforcement officials with appropriate training in the field of human rights and to inform arrested persons and detainees of their rights.

### *Paragraph 138*

All legal provisions or executive orders should be reviewed to ensure their compatibility with articles 7, 9 and 10 of the Covenant and their effective implementation in practice. Urgent steps should be taken to review the duration of police custody and preventive detention and to ensure the independent investigation of all allegations of ill-treatment by police and prison officers.

### *Paragraph 139*

Prison conditions should be brought into compliance with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners and those standards should be made accessible to the police, armed forces, prison personnel and other persons responsible for holding interrogations, as well as to persons deprived of their liberty.

### *See also:*

- Latvia, ICCPR, A/50/40 vol. I (1995) 62 at para. 356.
  
- Peru, ICCPR, A/52/40 vol. I (1997) 28 at paras. 162 and 163.

### *Paragraph 162*

It is of concern that in Peru socio-economic criteria are used to group convicted and unconvicted

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prisoners.

### *Paragraph 163*

The power of the police to decide to hold a person incommunicado for up to two weeks is of deep concern.

- Germany, ICCPR, A/52/40 vol. I (1997) 32 at para. 185.

It is of concern that solitary confinement can be imposed for a period of up to three months and can be further extended by court order.

- Bolivia, ICCPR, A/52/40 vol. I (1997) 35 at para. 208.

The Committee is particularly concerned that release on bail is never possible for those persons charged with offences that carry a penalty of two or more years of imprisonment.

- Georgia, ICCPR, A/52/40 vol. I (1997) 40 at paras. 243, 254 and 255.

### *Paragraph 243*

The disastrous prison situation, crowding, poor sanitary conditions and lack of medical care have resulted in a high rate of infectious disease and a very alarming mortality rate, in particular among juvenile detainees. This prison situation does not comply with the provisions of article 10 of the Covenant.

### *Paragraph 254*

All persons who are arrested must immediately have access to counsel, be examined by a doctor without delay and be able to submit promptly an application to a judge to rule on the legality of the detention.

### *Paragraph 255*

Urgent steps should be taken to improve the situation in prisons, in particular, the sanitary conditions. The State party is invited to reduce the use of imprisonment as a punishment for minor violations and pre-trial detention for excessive periods.

- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at paras. 289 and 302.

### *Paragraph 289*

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The Committee expresses its concern at appalling prison conditions, the most serious of which is the problem of overcrowding.

### *Paragraph 302*

With particular regard to the problem of prison overcrowding, the adoption of alternative sentencing measures which would allow some convicted persons to serve their sentences in the community should be considered and greater resources should be committed to enlarge the capacity and improve the conditions of the penitentiary system.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at para. 347.

The credible and well-substantiated reports of ill-treatment of prisoners and serious overcrowding of prisons, as well as the lack of clear segregation of minors and adults and of convicted detainees and those awaiting trial, continue to be of concern.

- Slovakia, ICCPR, A/52/40 vol. I (1997) 58 at para. 380.

Concern is expressed that the right to free legal assistance provided for by article 14, paragraph 3 (d), of the Covenant does not seem to be guaranteed in all cases, but only in cases for which the maximum penalty is more than five years' imprisonment. It is further noted with concern that although the law provides for the assistance of a lawyer immediately after arrest, many cases of failure to respect this right during police custody were reported. Therefore, legislation regulating the provision of free legal assistance should be reviewed to ensure that it conforms with the Covenant, and the implementation of laws and regulations governing the presence and assistance of lawyers should be closely monitored.

- France, ICCPR, A/52/40 vol. I (1997) 62 at paras. 403, 404 and 410.

### *Paragraph 403*

The Committee is seriously concerned at the number and serious nature of the allegations received regarding ill-treatment by law enforcement officials towards detainees and other persons who come into abrasive contact with them, including unnecessary use of firearms resulting in a number of deaths. The risk of such ill-treatment is much greater in the case of foreigners and immigrants. It is also concerned at the reported increase in the rate of suicides in detention centres. 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, is of concern. The Committee is concerned 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

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independent mechanism to monitor detention centres and to receive and deal with individual complaints of ill-treatment by law enforcement officials. The State party is urged to introduce in the training of law enforcement officials at all levels a comprehensive course in human rights comparable to the course suggested in the United Nations Training Manual for Law Enforcement Officers.

### *Paragraph 404*

The frequent resort to and length of pre-trial detention is of concern. It is a matter of particular concern that the length of pre-trial detention is high in case of juveniles. This would constitute violation of article 9, paragraph 3, and 14, paragraphs 2 and 3 (c), of the Covenant. The Committee is also concerned that the right to legal counsel may not be available to a juvenile in certain proceedings. Therefore, measures should be taken to reduce the length of pre-trial detention and legal aid to juveniles in legal proceedings should be ensured.

### *Paragraph 410*

The continued application of the anti-terrorist laws which provide for a centralized court where prosecutors have special powers of arrest, search and prolonged detention in police custody for up to four days (twice the normal length), and where an accused does not have the same rights in the determination of guilt as in the ordinary courts is of concern. Concern is expressed that the accused has no right to contact a lawyer during the initial 72 hours of detention in police custody and that no appeal is available against the decisions of the Special Court. Many hundreds of people are being detained, investigated and tried on suspicion of committing acts of terrorism or related offences. In the circumstances, anti-terrorist laws, which appear to be necessary to combat terrorism, should be brought fully into conformity with the requirements of articles 9 and 14 of the Covenant.

- India, ICCPR, A/52/40 vol. I (1997) 67 at paras. 438-441.

### *Paragraph 438*

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

- (a) The early enactment of legislation for mandatory judicial inquiry into cases of disappearance and death, ill-treatment or rape in police custody;
- (b) the adoption of special measures to prevent the occurrence of rape of women in custody;
- (c) the mandatory notification of relatives of detainees without delay;

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- (d) the guarantee of the right of detainees to legal advice and assistance and to have a medical examination;
- (e) that priority be given to providing training and education in the field of human rights to law enforcement officers, custodial officers, members of the security and armed forces, and judges and lawyers, and that the United Nations Code of Conduct for Law Enforcement Officials be taken into account in this regard.

### *Paragraph 439*

It is regretted that the use of special powers of detention remains widespread. While noting the State party's reservation to article 9 of the Covenant, the Committee considers that this reservation does not exclude, *inter alia*, the obligation to comply with the requirement to inform promptly the person concerned of the reasons for his or her arrest. Preventive detention is a restriction of liberty imposed as a response to the conduct of the individual concerned, and the decision as to continued detention must be considered as a determination falling within the meaning of article 14, paragraph 1, of the Covenant, and proceedings to decide the continuation of detention must, therefore, comply with that provision. It is recommended that the requirements of article 9, paragraph 2, of the Covenant be complied with in respect of all detainees. The question of continued detention should be determined by an independent and impartial tribunal constituted and operating in accordance with article 14, paragraph 1, of the Covenant. It is further recommended, at the very least, that a central register of detainees under preventive detention laws be maintained and that the State party accept the admission of the International Committee of the Red Cross to all types of detention facilities, particularly in areas of conflict.

### *Paragraph 440*

It is noted with concern that, although the Terrorist and Disruptive Activities (Prevention) Act has lapsed, 1,600 people remain in detention under its provisions. Measures should be taken to ensure either the early trial of these people or their release.

### *Paragraph 441*

Concern is expressed at the overcrowding and poor health conditions and sanitation in many prisons, the inequality of treatment of prisoners and the lengthy periods of pre-trial detention, all of which are incompatible with articles 9 and 10, paragraph 1, of the Covenant. Therefore, measures should be taken to reduce overcrowding, to release those who cannot be given a speedy trial and to upgrade prison facilities as quickly as possible. In this respect, attention should be given to the United Nations Standard Minimum Rules for the Treatment of Prisoners.

- Senegal, ICCPR, A/53/40 vol. I (1998) 13 at paras. 63 and 64.

### *Paragraph 63*



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The criteria enabling a judge to hold an arrested person in pre-trial detention are not defined under the law. The extensive discretionary power given to judges in such situations is of concern. Furthermore, in cases of offences against the security of the State, it is noted with concern that the provisions of the Code of Criminal Procedure allow special detention in police custody, and in particular allow the Public Prosecutor to authorize extension of the length of detention. The lack of access to counsel by detainees is also of concern. Therefore, the State party should set out in its Code of Criminal Procedure criteria establishing grounds on which persons awaiting trial may be held in detention which are in conformity with article 9 (3) of the Covenant. Furthermore, the Committee recommends the repeal of provisions dealing with special detention in cases of offences against the security of the State, or the provision of further legal safeguards in such cases.

### *Paragraph 64*

The recurring problems of overcrowding and poor health and sanitary conditions in many prisons, which are incompatible with article 10, paragraph 1 of the Covenant are of concern. Measures should be taken to reduce overcrowding and to upgrade prison facilities as quickly as possible.

- Jamaica, ICCPR, A/53/40 vol. I (1998) 15 at paras. 81 and 86.

### *Paragraph 81*

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

### *Paragraph 86*

The State party has failed to adhere strictly to article 9, paragraph 3, of the Covenant and to domestic statutory time limits on pre-trial detention. Such time-limits should be closely observed, so as to reduce the opportunity for beatings and other forms of police brutality such as have been alleged.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 126.

Concern is expressed over the inadequate prison conditions and "ghost house" detention centres. The Government of the Sudan should bring all places of detention under the control of the Prison Service,

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take the necessary measures to bring prison conditions into line with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners, and cooperate with the international community and NGOs in this regard as appropriate.

- Belarus, ICCPR, A/53/40 vol. I (1998) 26 at paras. 146 and 147.

### *Paragraph 146*

It is noted with concern that pre-trial detention may last up to 18 months, and that the competence to decide upon the continuance of pre-trial detention lies with the Procurator and not with a judge, which is incompatible with article 9, paragraph 3 of the Covenant. In this regard, the laws and regulations relating to pre-trial detention should be reviewed as a matter of priority to comply with article 9.

### *Paragraph 147*

It is noted with concern that the supervision of places of detention, by virtue of the Law of the Procurator's Office, is under the competence of the Procurator's Office, and that there exists no competent independent mechanism to receive and investigate complaints by detainees. Moreover, the overall conditions of detention in prisons, in particular with respect to overcrowding is of concern. Of particular concern are the existence of "punishment cells" and the fact that food rations are reduced for detainees placed in such cells, the *pressovchiki* in prison cells, and the conditions of detention of prisoners sentenced to death. Therefore, steps should be taken to improve prison conditions, including conditions for prisoners on death row. In so doing account should be taken of the Committee's General Comment No. 21 (44) on article 10 of the Covenant and the United Nations Minimum Standard Rules for the Treatment of Prisoners. The practice of "punishment cells", in which particularly harsh conditions are imposed on prisoners, and the use of *pressovchiki* should be abolished.

- Lithuania, ICCPR, A/53/40 vol. I (1998) 30 at paras. 170 and 171.

### *Paragraph 170*

The power of the police to detain people for up to five hours could be used for the purpose of harassment or intimidation, in violation of the right to personal liberty and security under article 9 of the Covenant. Therefore, the provisions on police detention should be reviewed to bring them into conformity with the Covenant.

### *Paragraph 171*

It is of concern that most prisons, especially places of pre-trial confinement, are overcrowded. Therefore, the necessary measures should be taken to ensure that the conditions of detention of persons deprived of their liberty comply with article 10 of the Covenant, taking into account the

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Committee's General Comment No. 21 (44) and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at paras. 219 and 220.

### *Paragraph 219*

That the maximum period of detention of 48 hours before being brought to a judge or magistrate may be extended to 96 hours by a senior police officer is a practice incompatible with article 9. That this practice provides opportunity for ill treatment and intimidation of detainees is of concern. The law relating to arrest and detention should be reviewed to bring it into conformity with article 9 of the Covenant and the State party should ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order.

### *Paragraph 220*

The conditions of overcrowding and disease in most prisons, resulting in a high incidence of death are of concern and should be remedied in compliance with article 10 of the Covenant.

- Uruguay, ICCPR, A/53/40 vol. I (1998) 38 at para. 242.

The following aspects of the new Code of Criminal Procedure are not in conformity with the Covenant:

(a) The provision in accordance with which a suspect may be placed in "*incommunicado*" detention until a decision is made as to whether he should be committed to stand trial. The fact that during this period the judge may restrict contact by the suspect with a lawyer is of concern. This provision should be brought into conformity with the Covenant.

(b) Regulations relating to pre-trial detention both in respect of suspects (*imputados*) and accused are not in conformity with article 9 of the Covenant. In accordance with the principle of presumption of innocence, pre-trial detention should not be mandatory. The wide possibilities which exist to restrict a suspect's liberty, in the light of the broad definition of "*imputado*" are also of concern. Detention procedures and other restrictions on the liberty of suspects and accused should be revised with a view to facilitating full application of the rights provided for under the Covenant, having particular regard to the principle of the presumption of innocence.

- Finland, ICCPR, A/53/40 vol. I (1998) 40 at paras. 268 and 270.

### *Paragraph 268*

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The existence of legal provisions for preventive detention of certain convicted persons ("dangerous recidivists") to be determined by the Prison Court is of continuing concern. Early consideration should be given to implementing the current proposals for the reform of indefinite imprisonment.

### *Paragraph 270*

Separate areas should be established for asylum seekers and aliens with irregular status, currently held in public prisons and police detention places, pending inquiry as to their status.

- Ecuador, ICCPR, A/53/40 vol. I (1998) 43 at paras. 279 and 286.

### *Paragraph 279*

The creation of the remedies of *amparo* and *habeas data*, as well as the expansion of the remedy of *habeas corpus*, are welcomed.

### *Paragraph 286*

It is of particular concern that accused persons may be held in detention pending trial for a maximum duration of a third of the possible sentence facing them, irrespective of the risk that they may fail to appear for trial. This is incompatible with the presumption of innocence and the right to be tried within a reasonable time or to be released on bail. Bail legislation should be brought into conformity with the provisions of the Covenant and resort to preventive detention should be the exception and not the rule.

- Israel, ICCPR, A/53/40 vol. I (1998) 45 at paras. 316 and 317.

### *Paragraph 316*

Prisoners may be segregated in Israel as a preventive measure for the protection of security, the maintenance of order or to guarantee the safety of the prisoner. Segregation involves substantial isolation and may be extended over long periods of time, and prolonged solitary confinement of a detained or imprisoned person may violate article 7. Efforts should be made to avoid prolonged isolation of segregated prisoners.

### *Paragraph 317*

Despite the reduction in the number of persons held in administrative detention on security grounds, persons may still be held for long and apparently indefinite periods of time in custody without trial. Palestinians detained by Israeli military order in the occupied territories do not have the same rights to judicial review as persons detained in Israel under ordinary law. At least some of the persons kept in administrative detention for reasons of State security (and in particular some Lebanese) do not personally threaten State security but are kept as "bargaining chips" in order to promote negotiations with other parties on releasing detained Israeli soldiers or the bodies of deceased soldiers. This

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application of administrative detention is incompatible with articles 7 and 16 of the Covenant, neither of which allows for derogation in times of public emergency. It is duly noted that Israel has derogated from article 9 of the Covenant. A State party may not depart from the requirement of effective judicial review of detention. The application of detention should be brought within the strict requirements of the Covenant and effective judicial review should be made mandatory.

- Italy, ICCPR, A/53/40 vol. I (1998) 50 at paras. 332, 342 and 343.

### *Paragraph 332*

The Committee commends the action taken to reduce the length of a nominal life sentence to a maximum finite sentence.

### *Paragraph 342*

The maximum period during which a person may be held in custody following arrest on a criminal charge should be reduced, even in exceptional circumstances, to less than the present five days and the arrested person should be entitled to access to legal advice as soon as he or she is arrested.

### *Paragraph 343*

The Italian system of holding offenders, before and after trial, in "preventive detention" until the final stages of any possible appeal have been exhausted and the sentence has been finalized, the maximum period of which is set by reference to the penalty for the offence of which the person stands accused, and can last up to six years, could constitute an infringement of the presumption of innocence (art. 14, para. 2) and the principle of the right to a fair trial within a reasonable time or to release (art. 9, para. 3). Therefore, (i) the linkage between the offence with which a person has been charged and the length of detention from the time of arrest up to final sentence should not be maintained; and (ii) the grounds for preventive detention should be restricted to those cases in which such detention is essential to protect legitimate interests, such as the appearance of the accused at the trial.

- Algeria, ICCPR, A/53/40 vol. I (1998) 52 at paras. 359 and 360.

### *Paragraph 359*

Provisions of the Penal Law that prescribe an increased number of offences for which the death penalty may be imposed, a lowering of the age to 16 for which a person may be liable to such a penalty, an extension from 2 to 12 days for which a suspect may be administratively detained incommunicado, and a definition of "terrorist" or "subversive" activities which lends itself to abuse should be amended and brought into strict compliance with articles 6 and 9 of the Covenant.

### *Paragraph 360*

The State party must ensure that:

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- (a) nobody may be arrested or detained "outside the law";
  - (b) complaints about such arrest or detention be given immediate attention and relatives, friends or lawyers of persons detained are able to receive an effective remedy, which includes reviewing the legality of the detention;
  - (c) all persons arrested be kept at officially designated places of detention; their families are immediately informed; they have immediate access to a lawyer; and that they are promptly charged and brought to trial;
  - (d) their detention should not exceed the limit provided by law and they have a right to medical examination on arrest and at the end of their detention.
- United Republic of Tanzania, ICCPR, A/53/40 vol. I (1998) 57 at para. 404.

Resources should be made available to remedy overcrowding, rape and other sexual abuse of female prisoners, and a failure to comply with minimum standards. Training in human rights should be given to prison officers, and a sufficient number of female officers should be recruited to ensure that only such officers are in charge of female prisoners. The Committee also urges that alternatives to a sentence of imprisonment be made more widely available to the courts and that the judiciary be encouraged to use these alternatives, in appropriate cases, when passing sentence.

- Belgium , ICCPR, A/54/40 vol. I (1999) 26 at paras. 78, 82-85 and 87.

### *Paragraph 78*

Measures taken by the State party to improve prison conditions, in particular by introducing alternative forms of punishment and building new establishments to alleviate overcrowding, are welcomed.

### *Paragraph 82*

The Government is urged to reconsider withdrawing its reservations to the Covenant, in particular with regard to article 10. The Government's explanation that the reservation is necessary because there is a problem of overcrowding in prisons is not persuasive. In addition, alternative sentencing, including community service, should be encouraged in view of its rehabilitative function.

### *Paragraph 83*

Community service and parole should be monitored and supervised in a more coherent way. The Government is encouraged to undertake an overall review of its sentencing policy and consequent training for the judiciary. The Committee is concerned that suspects do not at present have access to

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counsel and to medical visits from the moment of arrest. It is also concerned about the non-application of judicial guarantees in administrative tribunals and other non-judicial entities. Suspects should be promptly informed of their rights in a language they understand.

### *Paragraph 84*

The length of pre-trial detention and the high number of detainees still awaiting trial are of concern. The State party is urged to review its rules and practice for granting bail. The period of five months' detention, which may be extended to eight months, to which asylum seekers may be subjected, may amount to arbitrary detention in violation of article 9 of the Covenant, unless the detention is subject to judicial review which secures the release of the person if there is no lawful purpose being served by the detention.

### *Paragraph 85*

The State party is urged to develop rehabilitation programmes both for the time during imprisonment and for the period after release, when ex-offenders must be reintegrated into society if they are not to become recidivists.

### *Paragraph 87*

The practice (pursuant to article 53 of the Act of 8 April 1965 on the protection of young persons) which entitles the authorities to incarcerate minors for a period of 15 days is of grave concern and raises questions not only under article 10 but under articles 7 and 24 as well. Furthermore, the practice of not separating minors from adult offenders in jail is not only incompatible with article 10, paragraph 3, but constitutes a violation of article 24 of the Covenant.

- Armenia, ICCPR, A/54/40 vol. I (1999) 29 at para. 109.

The poor conditions prevailing in prisons are of concern. All persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person, and the State party should observe the Standard Minimum Rules for the Treatment of Prisoners.

- Libyan Arab Jamahiriya, ICCPR, A/54/40 vol. I (1999) 32 at para. 126.

The Committee is deeply troubled by the allegations, from various reliable sources, of extrajudicial, arbitrary or summary executions perpetrated by State agents as well as of a high incidence of arbitrary arrest and detention, including long detention without trial. All such allegations mentioned above should be fully, publicly and impartially investigated. The results of such investigations should be published, the perpetrators of those acts should be brought to justice and the victims and their families should be duly compensated.

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- Japan, ICCPR, A/54/40 vol. I (1999) 36 at paras. 161, 163-166 and 169.

### *Paragraph 161*

The Committee is concerned about allegations of violence and sexual harassment of persons detained pending immigration procedures, including harsh conditions of detention, the use of handcuffs and detention in isolation rooms. Persons held in immigration detention centres may remain there for periods of up to six months and, in some cases, even up to two years. The conditions of detention should be reviewed and, if necessary, measures should be taken to bring the situation into compliance with articles 7 and 9 of the Covenant.

### *Paragraph 163*

The conditions under which persons are held on death row are of serious concern. In particular, the undue restrictions on visits and correspondence and the failure to notify the family and lawyers of the prisoners on death row of their execution are incompatible with the Covenant. The conditions of detention on death row should be made humane in accordance with articles 7 and 10, paragraph 1, of the Covenant.

### *Paragraph 164*

The guarantees contained in articles 9, 10 and 14 are not fully complied with in that pre-trial detention may continue for as long as 23 days under police control and is not promptly and effectively brought under judicial control; the suspect is not entitled to bail during the 23-day period; there are no rules regulating the time and length of interrogation; there is no State-appointed counsel to advise and assist the suspect in custody; there are serious restrictions on access to defence counsel under article 39(3) of the Code of Criminal Procedure; and the interrogation does not take place in the presence of the counsel engaged by the suspect. The pre-trial detention system in Japan should be reformed with immediate effect to bring it in conformity with articles 9, 10 and 14 of the Covenant.

### *Paragraph 165*

The substitute prison system (*Daiyo Kangoku*), though subject to a branch of the police which does not deal with investigation, is not under the control of a separate authority. This may increase the chances of abuse of the rights of detainees under articles 9 and 14 of the Covenant. The substitute prison system should be made compatible with all requirements of the Covenant.

### *Paragraph 166*

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



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### *Paragraph 169*

The Committee is deeply concerned with many aspects of the prison system in Japan which raise serious questions of compliance with articles 2, paragraph 3 (a), 7 and 10 of the Covenant, specifically:

- (a) Harsh rules of conduct in prisons that restrict the fundamental rights of prisoners, including freedom of speech, freedom of association and privacy;
- (b) Use of harsh punitive measures, including frequent resort to solitary confinement;
- (c) Lack of fair and open procedures for deciding on disciplinary measures against prisoners accused of breaking the rules;
- (d) Inadequate protection for prisoners who complain of reprisals by prison warders;
- (e) Lack of a credible system for investigating complaints by prisoners; and
- (f) Frequent use of protective measures, such as leather handcuffs, that may constitute cruel and inhuman treatment.

- Chile, ICCPR, A/54/40 vol. I (1999) 44 at paras. 208-210.

### *Paragraph 208*

The law should be amended immediately to ensure that pre-trial detention will be the exception and not the rule, and will be used only when necessary to protect compelling interests, such as public safety and ensuring the appearance of the accused at their trials.

### *Paragraph 209*

The State party should reconsider its law on incommunicado detention with a view to eliminating it altogether.

### *Paragraph 210*

Institutionalized mechanisms for monitoring the conditions in prisons should be established, so as to ensure compliance with article 10 and to investigate complaints by inmates.

- Lesotho, ICCPR, A/54/40 vol. I (1999) 51 at para. 261.

The detention of suspects for periods longer than 48 hours before they are brought before a magistrate is of concern. Firm action should be taken to enforce compliance with the State party's

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own legislative provision limiting pretrial detention to 48 hours before appearance before a magistrate.

- Cambodia, ICCPR, A/54/40 vol. I (1999) 57 at paras. 304, 306 and 307.

### *Paragraph 304*

The Committee is concerned at statements in the report that the laws relating to arrest and preventive and pre-trial detention are not strictly observed, that unlawful and arbitrary detention is common and that many persons are kept in pre-trial detention longer than the period of six months permitted under Cambodian law. It is especially concerned that the provisions of the Transitional Criminal Code (arts. 10-22), under which the court must order the immediate release of a person arrested without a warrant, are not always complied with by the police authorities. It is also concerned about reports of obstruction of the judicial process by the police. The State party should take firm measures, including training of the judiciary and the police in human rights, to ensure strict compliance with its Criminal Code and with article 9 of the Covenant.

### *Paragraph 306*

Urgent steps should be taken to ensure that basic minimum standards are met in all prisons and places of detention, including addressing the issues of serious overcrowding, levels of ill-health and access to health care.

### *Paragraph 307*

Reports that children are detained in juvenile detention facilities for considerable periods without charge, access to a lawyer or access to court are of concern. It is of particular concern that these children are subject to beatings and ill-treatment. The State party should ensure strict observance of articles 7, 9 and 10 and should take appropriate measures to ensure the protection of children in accordance with article 24 of the Covenant.

- Mexico, ICCPR, A/54/40 vol. I (1999) 61 at para. 322.

An arrest made without a warrant from the competent official of the judiciary implies a serious threat to the security of persons. Arrested persons must have access to legal counsel before the time when they have to make a formal statement to the prosecutor. The Committee deplores the fact that the situation regarding access by members of an accused person's family was not clarified during the consideration of the report.

- Poland, ICCPR, A/54/40 vol. I (1999) 65 at paras 349 and 351.

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### *Paragraph 349*

Facilities for prisoners such as cell space should be effectively improved so as to comply with the Standard Minimum Rules for the Treatment of Prisoners.

### *Paragraph 351*

Persons who have to be detained should be brought to trial within a reasonable time or be released. A maximum length of pre-trial detention of 12 months, especially with the ability to extend this up to another 12 months is incompatible with article 9(3).

- Romania, ICCPR, A/54/40 vol. I (1999) 68 at para. 373.

Measures should be taken to improve conditions in prisons, particularly overcrowding, within the shortest practicable time-frame.

- Republic of Korea, ICCPR, A/55/40 vol. I (2000) 29 at paras. 141 and 145.

### *Paragraph 141*

A law of criminal procedure, under which the detention of a suspect is subject to judicial review only if the detainee lodges an appeal, is incompatible with article 9, paragraph 3, of the Covenant. The excessive length of permissible pre-trial detention (30 days in ordinary cases and 50 days in cases involving the National Security law) and the lack of defined grounds for such detention also raise questions of compliance with article 9.

### *Paragraph 145*

The abolition of the "ideology conversion oath" is welcomed. Its replacement by a "law-abidance oath" is regretted. It remains unclear which prisoners are required to sign the oath and what the consequences and legal effects of the oath are. Concern is expressed that the oath requirement is applied, on a discriminatory basis, particularly to persons convicted under the National Security Law, and that in effect it requires persons to make an oath to abide by a law that is incompatible with the Covenant.

- Cameroon, ICCPR, A/55/40 vol. I (2000) 36 at paras. 211 and 220.

### *Paragraph 211*

It is of deep concern that a person held in administrative detention may have his detention extended indefinitely with the authorisation of the Provincial Governor or the Minister for Territorial

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Administration, and that such person has no remedy by way of appeal or application of *habeas corpus*.

### *Paragraph 220*

The State party is urged to address the issue of prison overcrowding as a matter of priority and to ensure that prisoners are treated with humanity, in keeping with article 10 of the Covenant.

- Congo, ICCPR, A/55/40 vol. I (2000) 43 at para. 282.

Minimum conditions should be guaranteed for all prisoners, and necessary medical care should be provided.

- Mongolia, ICCPR, A/55/40 vol. I (2000) 49 at paras. 332 and 333.

### *Paragraph 332*

That a number of prisoners died of starvation during the reporting period is of serious concern. The recent changes in law and practice, by which food is provided to all prisoners, are welcomed. However, concern remains at the lack of other humane conditions of detention, such as timely medical care, sanitation and adequate space for prisoners.

### *Paragraph 333*

Steps should be taken to improve prison conditions to ensure that imprisonment does not damage prisoners' health and to introduce alternative forms of punishment other than imprisonment.

- Guyana, ICCPR, A/55/40 vol. I (2000) 53 at paras. 369, 371 and 372.

### *Paragraph 369*

That children (including children under 10 years of age) are held in detention on remand is of profound concern.

### *Paragraph 371*

Deep concern is expressed over dire prison conditions (article 10), including poor sanitation and lack of adequate food and medical care, resulting in disease and death. This is exacerbated by the excessive recourse to imprisonment as a punishment or as a preventive measure and by the overcrowding of prisons.

### *Paragraph 372*

The State party is reminded of its obligation under article 10 to ensure that all persons deprived of

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their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. It is encouraged to consider greater use of alternative forms of punishment or preventive measures.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 390, 393-398 and 415.

### *Paragraph 390*

Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. An independent system of monitoring all places of detention should be instituted with the purpose of preventing torture and other abuses of power by law enforcement officials.

### *Paragraph 393*

The Committee is concerned about the number of persons held in pre-trial detention, some of them incommunicado, that all the grounds for authorizing pre-trial detention are not exhaustively listed in the present laws, and about lack of judicial control over the prolongation of detention.

### *Paragraph 394*

The State party should ensure that anyone arrested or detained on a criminal charge be brought promptly before a judge (art. 9, para. 3), that all other aspects of its law and practice be harmonized with the requirements of article 9 of the Covenant, and that detained persons have access to counsel and contact with their families.

### *Paragraph 395*

The detention of persons on mental health grounds and the apparent lack of possibility of challenging such detention is of concern.

### *Paragraph 396*

Persons detained on mental health grounds should have prompt access to judicial review.

### *Paragraph 397*

Concern remains about inhuman prison conditions. This is characterized by overcrowding, inadequate food and medical care, and by the fact that convicted persons are frequently not kept segregated from the accused and that juvenile offenders are frequently detained in the same detention centres as adults (art. 10).

### *Paragraph 398*

Measures must be taken to improve prison conditions and to ensure that juveniles are detained in segregated centres. The State party must ensure that all persons deprived of their liberty are treated with humanity and respect for their inherent dignity. Specifically, it must ensure that all detainees are

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afforded adequate food and medical care.

### *Paragraph 415*

Journalists and human rights activists subjected to imprisonment in contravention of articles 9 and 19 of the Covenant should be released, rehabilitated, and given compensation pursuant to articles 9, paragraph 5, and 14, paragraph 6, of the Covenant.

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at paras. 436-439, 446 and 450.

### *Paragraph 436*

The continuing operation of the Offences Against the State Act is of concern, including the increase in the periods of detention without charge under the Act, that persons may be arrested on suspicion of being about to commit an offence, that the majority of persons arrested are never charged with an offence, and that, in circumstances covered by the Act, failure to respond to questions may constitute evidence supporting the offence of belonging to a prohibited organization. The application of the Act raises problems of compatibility with articles 9 and 14, paragraph 3 (g), of the Covenant. That legal assistance and advice may not be available until a person has been charged is regretted.

### *Paragraph 437*

Steps should be taken to ensure that all criminal procedures are brought into compliance with articles 9 and 14 of the Covenant.

### *Paragraph 438*

The seven-day period of detention without charge under the Drug Trafficking Act raises issues of compatibility with article 9, paragraph 1. That legal aid is not available to detainees between arrest and charge and does not extend to visits to persons in detention is of concern.

### *Paragraph 439*

The State party should ensure that all aspects of detention, including the period of detention and availability of legal aid, are administered in full compliance with article 9 of the Covenant.

### *Paragraph 446*

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

### *Paragraph 450*

The State party should provide for prompt review of detention on mental health grounds, i.e. within

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a few days (art. 9);

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 468, 469, 471, 472 and 474.

### *Paragraph 468*

Concern is expressed about the number of persons still detained under prison sentences handed down in 1991 by the Martial Law Courts. These trials did not meet the minimum standards set by article 14 of the Covenant, in particular the principles of equality before the courts, impartiality of the tribunal, the presumption of innocence, the right to have adequate time and facilities for the preparation of a defence, and other rights of due process under article 14, paragraphs 3 and 5, of the Covenant.

### *Paragraph 469*

The cases of persons still held under sentences described in the previous paragraph should be reviewed by an independent and impartial body, and compensation should be paid pursuant to articles 9, paragraph 5, and 14, paragraph 6, of the Covenant, where appropriate. The many reported cases of persons detained in 1991 who have subsequently disappeared, many of them Palestinians with Jordanian passports, Kurds, and other persons formerly residing in Kuwait, are of concern. While the delegation acknowledges only one case, other sources suggest that the fate of at least 62 persons, whose names have been communicated to the State party, remains unknown.

### *Paragraph 471*

The fact that a detained person may be held in police custody for a period of four days before being brought before an investigating official and that it would appear that this period can be extended is of concern.

### *Paragraph 472*

The period of police custody before a detained person is brought before a judge should not exceed 48 hours. The State party should ensure that anyone arrested or detained on a criminal charge is brought promptly before a judge or other officer authorized by law to exercise judicial power (art. 9, para. 3), that all other aspects of its law and practice are harmonized with the requirements of article 9 of the Covenant, and that detained persons have immediate access to counsel and contact with their families.

### *Paragraph 474*

All cases of abuse by the police and prison personnel should be investigated by independent authorities, action should be taken against perpetrators, and victims should be granted compensation.

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- Australia, ICCPR, A/55/40 vol. I (2000) 71 at paras. 522 and 523.

### *Paragraph 522*

Legislation regarding mandatory imprisonment in Western Australia and the Northern Territory, which leads in many cases to imposition of punishments that are disproportionate to the seriousness of the crimes committed and would seem to be inconsistent with the strategies adopted by the State party to reduce the over-representation of indigenous persons in the criminal justice system, raises serious issues of compliance with various articles of the Covenant.

### *Paragraph 523*

The State party is urged to reassess the legislation regarding mandatory imprisonment so as to ensure that all Covenant rights are respected.

- Trinidad and Tobago, ICCPR, A/56/40 vol. I (2001) 31 at para. 72(17).

Prison conditions are of concern. Whilst accepting that the opening of and phased introduction of prisoners into the new maximum security prison will, together with the impact of non-custodial sentences reduce the population held in out-dated establishments, the conditions in these establishments are incompatible with article 10. The publication and implementation of the new commission's report on giving effect to the Standard Minimum Rules for the Treatment of Prisoners should be given priority.

- Denmark, ICCPR, A/56/40 vol. I (2001) 34 at para. 73(13).

The extended use of solitary confinement for persons incarcerated following conviction, and especially for those detained prior to trial and conviction, is of particular concern. Solitary confinement is a harsh penalty with serious psychological consequences and is justifiable only in case of urgent need; the use of solitary confinement other than in exceptional circumstances and for limited periods is inconsistent with article 10, paragraph 1, of the Covenant. The practice of solitary confinement should be reconsidered so as to assure that it is imposed only in cases of urgent need.

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at paras. 74(10) and 74(11).

### *Paragraph 74(10)*

In light of articles 9 and 14 of the Covenant, the failure of the State party fully to ensure the principle of presumption of innocence in criminal proceedings is of deep concern. In this respect, that the



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duration of pre-trial detention is determined by reference to the possible length of sentence following conviction rather than the need to bring the detainee before the courts is of concern. The imposition of such detention should not be the norm but should be resorted to only as an exceptional measure to the extent necessary and consistent with due process of law and article 9 (3) of the Covenant. In this regard, there should not be any offences for which pre-trial detention is obligatory. All aspects of the system of pre-trial detention, including the determination of the length of detention, should be reformed in accordance with the requirements of article 9 and the principle of presumption of innocence under article 14.

### *Paragraph 74(11)*

That prison conditions fail to meet the requirements of articles 7 and 10 of the Covenant is of deep concern. The severe overcrowding and the poor quality of basic necessities and services, including food, clothing and medical care, are incompatible with the right to be treated with humanity and with respect for the inherent dignity of the human person to which all persons are entitled. It has been established, in addition, that there are abuses of authority by prison officials, such as torture and ill-treatment, and corruption. While noting the plans under way to construct new prison facilities, immediate attention should be paid to the need to provide adequately for the basic necessities of all persons deprived of their liberty.

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at paras. 75(13) and 75(14).

### *Paragraph 75(13)*

The safeguards provided for in article 9 of the Covenant are not fully respected either in law or in practice. The length of time people can spend in police custody and pre-trial detention is of particular concern. Article 9, paragraph 3, of the Covenant stipulates that "It shall not be the general rule that persons awaiting trial shall be detained in custody". The State party should take action to ensure that detention in police custody never lasts longer than 48 hours and that detainees have access to lawyers from the moment of their detention. The State party must ensure full *de facto* compliance with the provisions of article 9, paragraph 3, of the Covenant.

### *Paragraph 75(14)*

The delegation's statement that, in prison, detainees are segregated, accused persons being kept separate from convicted persons and juveniles from adults, is noted. However, it is of concern that such segregation is still not practised in some rural prisons. Although the State party has made efforts to restructure its prisons and has built two new ones, the dilapidated state of the old prisons, the overcrowding and the lack of hygiene are still of concern. The State party must bring prison conditions into line with article 10 of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners, making those rules available to the police, the Armed Forces, prison staff and anyone else responsible for conducting interrogations, as well as to persons deprived of their liberty.

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- Peru, ICCPR, A/56/40 vol. I (2001) 45 at paras. 76(13)-76(15).

### *Paragraph 76(13)*

Detention for up to 15 days in cases of terrorism, drug trafficking and espionage does not comply with article 9 of the Covenant. Attention is drawn to the State party's obligation to amend its legislation so that any person who has been detained may be placed without delay at the disposal of the judiciary.

### *Paragraph 76(14)*

Poor conditions of detention, particularly in Lurigancho prison in Lima and the maximum security prisons of Yanamayo, in Puno, and Challapalca, in Tacna (high-altitude prisons where visiting rights, *inter alia*, are far from easy to exercise owing to the difficulty family members have in reaching them) are of concern. Conditions in these prisons do not comply with article 10 of the Covenant. The State party is urged to take the necessary measures to improve prison conditions in Peru. In particular, it urges the State party to reduce the prison population of Lurigancho prison and close down Yanamayo and Challapalca prisons.

### *Paragraph 76(15)*

The continuing practice of one year's isolation for convicted and unconvicted prisoners, in accordance with the regulations on the living conditions and progressive treatment of prisoners who are difficult to rehabilitate, those awaiting trial or sentenced for ordinary offences or for terrorism or treason, is of concern. Such isolation may be extended when the person concerned breaks a rule, however minor. The State party is urged to review this practice, which affects the physical and mental health of persons deprived of their liberty and constitutes cruel, inhuman or degrading treatment or punishment, thus hampering full compliance with articles 7 and 10 of the Covenant.

- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at paras. 77(9)-77(11).

### *Paragraph 77(9)*

The lack of detailed information on detention by the police is regretted. The lack of clarity on the status and powers of the Sectoral Department of Intelligence and Presentation Services (DISIP) is also of concern, especially given the large number of complaints about the treatment of detainees. To evaluate its compliance with articles 9, 10 and 14 of the Covenant, the State party needs to inform the Committee whether detained persons are brought before a judge or an official with judicial authority without delay; whether a lawyer may be present during their interrogation by the police; whether they are automatically given medical check-ups on entering and after being released from police custody; what regulations govern the holding of detained persons incommunicado; whether appropriate legislation has been enacted to implement all the provisions of the Constitution with respect to detention; and the status and powers of DISIP.

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### *Paragraph 77(10)*

The lack of information on the average time spent in detention awaiting judgement is regretted. The length of such detention may raise issues of compatibility with article 9, paragraph 3, and article 14 of the Covenant. The State party should speed up trials and abide strictly by article 9, paragraph 3, of the Covenant in order to bring the situation into line with the requirements of the Covenant.

### *Paragraph 77(11)*

Conditions in prisons and places of detention are of concern, since the delegation itself acknowledged that most human rights violations in Venezuela occur in such places. The overcrowding and failure to segregate detainees awaiting judgement from convicts are incompatible with the Covenant. The recently established institutional mechanisms (supervising prosecutors and prison-supervising judges) for supervising conditions in prisons and investigating the complaints of prisoners should be strengthened with a view to the implementation of articles 7 and 10 of the Covenant.

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at paras. 78(8) and 78(11)-78(15).

### *Paragraph 78(8)*

The information from the delegation that 229 people suffered violent deaths at the hands of the police force in 2000 is noted with great concern. According to other sources the figure could be higher. 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 equal 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.

### *Paragraph 78(11)*

Despite the creation of more courts, the high percentage of prisoners in pre-trial detention has increased. This means that many people accused of crimes remain in detention waiting for their trials to end, which is contrary to article 9, paragraph 3, and article 14, paragraph 2, of the Covenant. The State party should reform the law immediately to make pre-trial detention the exception rather than the rule, used only when strictly necessary.

### *Paragraph 78(12)*

The power to hold prisoners *incommunicado* continues to provoke deep concern. The State party should revise the law to ensure that detention *incommunicado* does not violate articles 7, 9 and 10 of the Covenant.

### *Paragraph 78(13)*

It is of serious concern that applications for *habeas corpus* are heard weeks or months after receipt.

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This is incompatible with article 9 of the Covenant. The State party should take prompt action to enable the courts to rule on the legality of detentions as quickly as possible.

### *Paragraph 78(14)*

It is noted with serious concern that, far from improving as a result of the construction of new facilities and the renovation of older ones, the situation in prisons and other places of detention has worsened owing to the increase in the number of prisoners, enormous overcrowding, deplorable sanitary conditions, failure to separate juveniles from adults and men from women and the existence of solitary confinement cells without light, windows or ventilation. The State party should establish institutional mechanisms to supervise prison conditions with a view to complying with article 10 of the Covenant and to investigate prisoners' complaints. The prison renovation programme that has been announced should go ahead as soon as possible.

### *Paragraph 78(15)*

It is of concern that prisons are guarded by the police and the army because there is no prison guard service, although training courses to that end have started. To comply with article 10 of the Covenant, the State party needs to establish as soon as possible a specialized prison guard service independent of the police investigation services and the armed forces that meets the United Nations standard minimum rules on the treatment of prisoners and is given instruction in human rights.

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at paras. 79(4), 79(7) and 79(9)-79(12).

### *Paragraph 79(4)*

Satisfaction is expressed at the fact that an agreement has been reached between the State party and the International Committee of the Red Cross, by which the Red Cross is authorised to visit Uzbek prisons and to examine conditions existing in detention facilities.

### *Paragraph 79(7)*

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

### *Paragraph 79(9)*

Conditions in detention centres and penal institutions in Uzbekistan continue to be of concern. Numerous allegations of deaths in prisons and the return of marked and bruised corpses to the families of detainees are of particular concern. The State party should ensure that measures are taken to improve conditions in detention centres and penal institutions so that they are compatible with

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articles 7 and 10 of the Covenant. The State party should ensure that all persons deprived of their liberty are treated with humanity and respect for their dignity, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

### *Paragraph 79(10)*

Information about the extremely poor living conditions of detainees on death row, including the small size of cells, and the lack of proper food and exercise, is of particular concern. The State party should take immediate action to improve the situation of death row inmates in order to bring their conditions in line with the requirements of article 10, paragraph 1, of the Covenant.

### *Paragraph 79(11)*

The Committee is concerned that from the time the accused is arrested, and throughout the judicial procedure, until the final judgement, the accused continues to be in the hands of and under the authority of the police or the Ministry of the Interior. The State party should ensure that promptly after apprehension the accused is removed from the custody of the authorities responsible for law enforcement and brought under the jurisdiction of the authorities responsible for the administration of justice, thus minimising the risks of a violation of articles 7, 9, paragraphs 1 and 2, and 10, paragraph 1, of the Covenant.

### *Paragraph 79(12)*

The length of detention (72 hours) before detainees are informed of charges being brought against them is of concern. This period of detention, before detainees are informed of the charges being brought against them, is too long and not in compliance with article 9, paragraph 2, of the Covenant. The unwillingness of the delegation to answer questions related to court review of arrest (art. 9, para. 3) is deplored. The State party should take urgent measures to bring the Law of Criminal Procedure into compliance with the Covenant so that the accused are promptly informed of any charges against them and promptly brought before a judge.

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at para. 80(14).

Reports about abuse of prisoners by fellow prisoners are of concern. The State party should take steps to ensure compliance with the requirements of article 10.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at paras. 81(12)-81(14).

### *Paragraph 81(12)*

Deep concern is expressed about constant and duly substantiated allegations of violations of article 7 of the Covenant, to which the delegation did not respond, which are attributed to law enforcement

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personnel. The many allegations that torture is practised in Syrian prisons, particularly Tadmur military prison are noted with concern. The State party should ensure that complaints of torture and other abuses committed by agents of the State are considered by an independent body. The State party should institute a system of independent oversight of all detention facilities with a view to preventing all acts of torture and other abuses of power by law enforcement personnel.

### *Paragraph 81(13)*

The many allegations of inhumane prison conditions and inadequate medical care in a number of prisons, particularly military prisons, including Tadmur prison remain of concern. Steps should be taken to improve prison conditions in these facilities. It must be ensured that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person. Appropriate and timely medical care must be available to all detainees.

### *Paragraph 81(14)*

The number of people held in pre-trial detention, some of whom are in solitary confinement is of concern. Hundreds of people have reportedly been arrested and detained without an arrest warrant or indictment, only to be released without judicial procedures having been initiated and, in many cases, after many years in detention. Anyone arrested or detained on a criminal charge must be brought promptly before a judge (article 9, paragraph 3, of the Covenant). The State party must ensure that all other aspects of its practice are consistent with the provisions of article 9 of the Covenant and that detainees have access to counsel and are permitted to contact their families.

- The Netherlands, ICCPR, A/56/40 vol. I (2001) 76 at para. 82(13).

Concern is expressed that the State party's law provides for a maximum of 3 days and 15 hours which may elapse between a suspect's arrest and his or her being brought before a judge. Such a period does not satisfy the requirement in article 9, paragraph 3, to be "promptly" brought before a judicial authority. The State party should amend this aspect of its criminal procedure to comply with the requirements of the Covenant.

- The Netherlands (Antilles), ICCPR, A/56/40 vol. I (2001) 76 at paras. 82(17) and 82(19).

### *Paragraph 82(17)*

Despite physical improvements which have been made to the prison facilities, the unlawful conduct on the part of the staff, combined with their failure to control adequately the behaviour of the inmates

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remains of concern. These problems threaten the capacity of the competent authorities to properly administer the penitentiary system and to respect the rights of inmates (articles 7 and 10).

The State party should undertake the necessary steps to ensure that the prison staff act with the highest professional standards in a manner that ensures that the rights of all inmates are respected.

### *Paragraph 82(19)*

It is of concern that there is a sizeable backlog in the revision of outdated and obsolete legislation, in particular in the provisions of the Antillean Criminal Code. Particularly in the area of criminal law, legal certainty and clarity are of particular importance in enabling individuals to determine the extent of liability for specific conduct. The State party should proceed with the proposed revision of the Criminal Code at the earliest opportunity. In particular, references to the death penalty should be removed.

- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at paras. 83(17)-83(20).

### *Paragraph 83(17)*

It is of concern that the period of up to 48 hours before being brought before a court is excessive, and that access to a lawyer is not available during that period to a suspect who cannot afford one (art. 9). The State party should ensure that detained persons are brought promptly before a court and that access to a lawyer is available from the moment of deprivation of liberty.

### *Paragraph 83(18)*

Concern is expressed about the scope and length of pre-trial detention, the average length of which is inordinately high. The system, as it is applied, would seem to raise issues of compatibility with article 9, paragraph 3. The figures provided by the State party on the number of cases in which the prosecution's request for detention is accepted by the courts casts doubts on the effectiveness of the system of review (art. 9). The State party should ensure that its law and practice are in strict compliance with the requirements of article 9 of the Covenant.

### *Paragraph 83(19)*

The State party should take measures to overcome overcrowding in prisons and to ensure compliance with the requirements of article 10.

### *Paragraph 83(20)*

While acknowledging the change in the Code of Criminal Procedure which will abolish unconditional prison sentences under the system of punishment orders, it remains of concern that this system of punishment orders raises serious issues under article 14, particularly with regard to the right to defence. The State party should ensure that the rights under article 14 of persons on whom punishment orders are imposed are fully respected.

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- Monaco, ICCPR, A/56/40 vol. I (2001) 89 at para. 84(15).

Concern is expressed about the inadequacy of the guarantees available to persons in police custody, particularly the right of such persons to legal assistance (article 9). Appropriate legislative measures should be taken to ensure that the rights of persons in police custody are protected and, specifically, that they are allowed to obtain the assistance of a lawyer.

- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at para. 85(22).

The large percentage of prisoners held in pre-trial detention is of concern. This means that a large number of persons accused of crimes remain in pre-trial detention for long periods, pending the completion of the criminal proceedings against them, contrary to article 9, paragraph 3, and article 14, paragraph 2, of the Covenant. The State party should continue to take all necessary measures to reduce the number of persons in pre-trial detention and the period during which they are detained.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at paras. 86(15), 86(16) and 86(18).

### *Paragraph 86(15)*

Deep concern is expressed about consistent and substantial allegations of violations of article 7 of the Covenant by law enforcement personnel. The information given by the delegation about the small number of complaints of ill-treatment in custody or detention (6 complaints between 1998 and 2000) is difficult to accept as a reflection of the actual situation, in the light of the material available to the Committee, which suggests that the number of instances of ill-treatment and torture is significantly higher. The State party should ensure that all instances of ill-treatment and of torture and other abuses by agents of the State are promptly considered and investigated by an independent body. A system of independent oversight of all places of detention and custody should be instituted with a view to preventing any act of abuse of power by law enforcement personnel.

### *Paragraph 86(16)*

The Committee is concerned about the many allegations of cruel, inhuman and degrading treatment and conditions and of inadequate medical care in reform institutions, prisons and prison camps, which appear to be in violation of articles 7 and 10 of the Covenant and of the United Nations Standard Minimum Rules for the Treatment of Prisoners. The State party should take steps to improve conditions in the above facilities and all other facilities of detention. All persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person, as required by article 10 of the Covenant. Sufficient food and appropriate and timely medical care must be available to all detainees. The State party should allow for independent internal and international inspection of prisons, reform institutions, and other places of detention or imprisonment.



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### *Paragraph 86(18)*

The compatibility of the State party's pre-trial detention practices and preliminary investigation procedures with article 9 of the Covenant is a matter of concern. The duration of detention before a person is brought before a judge is manifestly incompatible with article 9, paragraph 3 of the Covenant. Anyone arrested or detained on a criminal charge must be brought promptly before a judge. The State party must ensure that all of its practices are consistent with the provisions of article 9 of the Covenant and that detainees have access to counsel and are permitted to contact their families from the moment of apprehension.

### **ICESCR**

- Mauritius, ICESCR, E/1995/22 (1994) 37 at para. 173.

Article 6 of the Covenant enshrines the right of everyone to gain his living by work which he freely chooses or accepts. In the light of this provision, the Committee is concerned about certain provisions of the Merchant Shipping Act, No. 28 of 1986, according to which certain breaches of discipline by seamen are punishable by imprisonment (involving an obligation to perform labour), and foreign seamen may be forcibly conveyed on board ships to perform their duties. These provisions are a subject of concern also to the ILO Committee of Experts on the Application of Conventions and Recommendations.

- Austria, ICESCR, E/1995/22 (1994) 50 at para. 261.

Taking account of the observations made by the ILO Committee of Experts on the Application of Conventions and Recommendations, in its 1994 report, concerning work done by detainees within prisons for private businesses, the Government of Austria is encouraged to take measures to improve the level of remuneration and social welfare of such detainees.

- Dominican Republic, ICESCR, E/1997/22 (1996) 44 at para. 231.

The inhuman and archaic prison system is noted with concern, whereby members of the family of an accused person who has run away may be imprisoned without trial in his place as a guarantee for the accused until he surrenders himself to the prison authorities; and whereby prisoners are expected to buy their own meals on weekends, when the prison authorities stop providing them.

- Russian Federation, ICESCR, E/1998/22 (1997) 27 at paras. 112 and 125.

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### *Paragraph 112*

Concern is expressed over the re-emergence of tuberculosis in the State party, particularly in prisons, where the health and social conditions of detention are unacceptable.

### *Paragraph 125*

It is strongly recommended that the State party take immediate action to improve the health conditions in prisons, especially with regard to the rise in the rate of tuberculosis among prisoners and detainees.

- Nigeria, ICESCR, E/1999/22 (1998) 27 at para. 131.

Harsh prison conditions should be alleviated and political prisoners should be freed and pardoned.

- Mongolia, ICESCR, E/2001/22 (2000) 53 at para. 274.

The degrading conditions for detainees, who have been reported to suffer from overcrowding, inadequate medical care and hygiene and from malnourishment, are noted with concern.

- Australia, ICESCR, E/2001/22 (2000) 66 at para. 395.

It is recommended that the State party ensure that labour in private prisons is voluntarily undertaken and is properly remunerated.

- Germany, ICESCR, E/2002/22 (2001) 97 at paras. 663 and 681.

### *Paragraph 663*

There is concern that prisoners who undertake labour for private companies may be doing so without having expressed their prior consent.

### *Paragraph 681*

Measures should be undertaken to ensure that prisoners working for private companies do so after having expressed their prior consent.

## **CEDAW**

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- Peru, CEDAW, A/50/38 (1995) 79 at para. 445.

The National Council for Human Rights should be strengthened in its investigation of human rights abuses against women detainees and civilians and more updated and gender-disaggregated information on the Nationwide Register of Detainees as well as cases of enforced disappearances should be provided.

- Bangladesh, CEDAW, A/52/38/Rev.1 part II (1997) 117 at para. 443.

The absence of special prisons for women, which posed serious threats to the security and protection of women committed to prison is of serious concern.

- United Kingdom of Great Britain and Northern Ireland, CEDAW, A/54/38/Rev.1 part II (1999) 71 at para. 313.

The Government should intensify its efforts to understand the causes for the apparent increase in women's criminality and should seek alternative sentencing and custodial strategies for minor infringements. The Government is also called upon to improve the education of judges with regard to domestic violence so that these cases are given the same attention and consideration as cases brought under other provisions of the criminal law.

- India, CEDAW, A/55/38 part I (2000) 7 at para. 72.

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

- Egypt, CEDAW, A/56/38 part I (2001) 33 at para. 344.

It is of concern that, although efforts have been made, there is no holistic approach to the prevention and elimination of violence against women, including domestic violence, marital rape, violence against women in detention centres and crimes committed in the name of honour or the punishment of perpetrators.

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### CAT

- United Kingdom of Great Britain and Northern Ireland, CAT, A/47/44 (1992) 19 at para. 125.

The absence of video recordings of interrogations by the police, the lack of a suspect's entitlement to the presence of a solicitor during interrogation, and the refusal of the right to silence is of concern. The proposal to establish an independent commissioner to inspect interrogation centres is welcomed, but such monitoring must apply to interrogation rules as well as to methods and practices.

- Czechoslovakia, CAT, A/47/44 (1992) 27 at para. 147.

It is hoped that the participation of doctors in decisions to place detainees in solitary confinement will be fully implemented so that no one is so detained without prior medical examination.

- Cameroon, CAT, A/47/44 (1992) 47 at para. 283.

Specific areas causing concern in respect of the implementation of the Convention include the duration of police custody permissible by law and the need to provide persons in police custody with further guarantees of protection against abuse of power or ill-treatment; the need to guarantee the same rights to a person in administrative detention as to a person who has been deprived of his freedom according to judicial proceedings; the need to improve the provisions of training and information to civilian or military law enforcement personnel, public officials, policemen and prison staff and to improve the independence of the judiciary and the supervision of conditions of detention in prisons; and the need to investigate alleged cases of torture or ill-treatment.

- China, CAT, A/48/44 (1993) 62 at paras. 427 and 428.

#### *Paragraph 427*

Arrested or detained persons should have more extensive guarantees immediately following their arrest and should have prompt and regular access to their family, lawyer and doctor. In order to guarantee the protection of detainees during interrogation, separation between the authorities responsible for detention, on the one hand, and investigation, on the other should be provided for. The conduct of interrogations should be monitored in the framework of administrative and other forms of detention. In that regard, legislation could be considered that would enable detainees to lodge complaints and allow plaintiffs and witnesses to be protected against any ensuing ill-treatment or intimidation.

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### *Paragraph 428*

Criminal proceedings should be systematically initiated against persons accused of acts of torture. Those proceedings should be conducted independently of any disciplinary measures taken. Procedures should be introduced to guarantee the medical examination of persons detained or arrested, to be carried out by qualified and independent medical doctors, immediately following arrest and at regular intervals thereafter, in particular before release. Training for law enforcement personnel, members of the armed forces and medical doctors should concern in particular, limitations on the use of instruments, equipment and weapons by the security forces.

- Spain, CAT, A/48/44 (1993) 68 at para. 456.

All offences specified in article 1 of the Convention need to be punished with equal vigour. General application of the procedural standards relating to the holding of persons incommunicado and to the choice of a trustworthy counsel is desirable.

- Paraguay, CAT, A/49/44 (1994) 11 at paras. 58 and 59.

### *Paragraph 58*

Concern is expressed about the complex situation in the prisons, which do not appear to meet the minimum requirements in order to serve as re-education centres for offenders and not to become instruments of ill-treatment.

### *Paragraph 59*

The continued lack of legal mechanisms to make clearer the prohibition of torture, to halt extended or incommunicado detention and, in general, to bring domestic law fully into line with the Convention is of concern. The absence, in practice, of a swift and firm reaction on the part of the courts to allegations of ill-treatment and torture is of concern.

- Portugal, CAT, A/49/44 (1994) 17 at para. 114.

The duration of pre-trial detention, both in law and in practice, is a negative factor.

- Switzerland, CAT, A/49/44 (1994) 20 at paras. 132 and 133.

### *Paragraph 132*

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Reform of the legislation and practice relating to police custody and pre-trial detention is desirable, particularly the right to get in touch with one's family, immediate access to a lawyer and the right to a medical examination by a doctor of the detained person's choice or drawn from a list of doctors compiled by the Medical Association.

### *Paragraph 133*

The system of holding persons incommunicado during pre-trial detention is of concern, as is the problem of solitary confinement of prisoners for long periods which may constitute inhuman treatment.

### *See also:*

- Libyan Arab Jamahiriya, CAT, A/50/44 (1995) 16 at para. 99.
- Chile, CAT, A/50/44 (1995) 10 at para. 60.

In a spirit of collaboration the State party should conduct an in-depth review of procedure, especially as regards police powers of detention and the right of the detainee to free access to and communication with family members and legal advisers and a physician whom he trusts; and is explicitly advised to abolish those rules such as automatic obedience, which are not compatible with the Convention.

- Peru, CAT, A/50/44 (1995) 11 at para. 68.

The legislation intended to repress acts of terrorism does not meet the requirements of international agreements concerning a fair, just and impartial trial with minimum safeguards for the rights of the accused (for example, "faceless" judges, serious limitations on the right of defence, lack of opportunity to take proceedings before a court, and extension of the period of incommunicado detention).

- Libyan Arab Jamahiriya, CAT, A/50/44 (1995) 16 at para.101.

A person deprived of his liberty should have guaranteed free access to a lawyer, to a doctor of his choice and to his relatives at all stages of detention.

- Netherlands, CAT, A/50/44 (1995) 18 at para. 130.

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Aruba should take steps to change the situation with regard to conditions in police and prison premises and especially to shorten the period of 10 days in police custody which is allowed under the law.

- Mauritius, CAT, A/50/44 (1995) 20 at paras. 142 and 143.

### *Paragraph 142*

The State party should effectively set up machinery for systematic monitoring of all police premises, with a view to ensuring broader protection of persons under arrest.

### *Paragraph 143*

The State party should pursue its efforts to undertake legislative reforms, more particularly in regard to prison administration, periods of police custody and the right to be attended by a doctor or to be visited by a family member.

- Italy, CAT, A/50/44 (1995) 21 at paras. 156 and 157.

### *Paragraph 156*

The number of unconvicted prisoners, the overcrowding in prisons and the suspension, even temporary, of humanitarian rules on the treatment of prisoners is of concern.

### *Paragraph 157*

The State party should monitor effective compliance with safeguards during preliminary custody, especially access to a doctor and legal counsel and establish more training programmes for law-enforcement and medical personnel.

- Jordan, CAT, A/50/44 (1995) 23 at paras. 174 and 176.

### *Paragraph 174*

The State party should strengthen measures to protect the rights of detainees, especially their access to judges, lawyers and doctors of their choice. It should also promptly investigate allegations of torture and ill treatment and ensure that appropriate penalties are applied whenever such offences are committed; prevent the commission of such acts through efforts to ensure the stricter observance of regulations relating to the treatment of detainees and offenders; and reduce the length of preventive

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detention, taking into account its principle of presumption of innocence and the complexity of investigation.

### *Paragraph 176*

Detention and interrogation functions should be separated and the supervision of any detention centre should be effectively carried out by officials rather than those who are in charge of the detention centres.

- Denmark, CAT, A/51/44 (1996) 9 at para. 38.

Allegations concerning one case of apparent torture, and some cases of ill-treatment, and the alleged use of leglocks by police forces, as well as solitary confinement applied in some places of detention are of concern.

- United Kingdom of Great Britain and Northern Ireland, CAT, A/51/44 (1996) 12 at paras. 61 and 63-65.

### *Paragraph 61*

The maintenance of emergency legislation in Northern Ireland and of separate detention or holding centres will inevitably continue to create conditions leading to the breach of the Convention. This is particularly so because at present the practice of permitting legal counsel to consult with their clients at their interrogations is not yet permitted.

### *Paragraph 63*

In Hong Kong the warehousing of Vietnamese boat people in large detention centres may bring the Government into conflict with article 16 of the Convention.

### *Paragraph 64*

The following is of concern:

The practice of vigorous interrogation of detainees under the emergency powers, which may sometimes breach the Convention;

The rate of suicide in prisons and places of detention;

The failure to provide for counsel to be present during interrogation in Northern Ireland for terrorist-related offences;

The allegations of discrimination in the treatment of Black citizens in the United Kingdom by police



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and immigration authorities.

### *Paragraph 65*

The following is recommended:

Abolishing detention centres in Northern Ireland and repealing the emergency legislation;

Re-educating and retraining police officers, particularly investigating police officers, in Northern Ireland as a further step in the peace process;

Training immigration officers on how to manage violent prisoners with a minimum at risk of harm to all those involved;

Extending the taping of interrogations to all cases and not merely those that do not involve terrorist-related activities and in any event to permit lawyers to be present at interrogations in all cases;

Policies favouring private policing should be reviewed with a view to properly regulating that activity;

Corporal punishment should be reconsidered with a view to determining if it should be abolished in those dependencies that still retain it.

- Colombia, CAT, A/51/44 (1996) 15 at para. 76.

The light penalties for the offence of torture in the Code of Military Justice do not seem to be acceptable, nor does the extension of military jurisdiction to deal with ordinary crime by means of the inadmissible expansion of the concept of active service and the enactment of provisions which seriously limit the effectiveness of means for protecting rights, such as *habeas corpus*.

- Armenia, CAT, A/51/44 (1996) 17 at para. 99.

The Government should consider the possibility of establishing an effective and reliable judicial review of the constitutional rights of those who are illegally detained.

- Finland, CAT, A/51/44 (1996) 21 at para. 133.

The completion of the procedure for the abolition of preventive detention is recommended.

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- China, CAT, A/51/44 (1996) 22 at paras. 149 and 150.

### *Paragraph 149*

The following is of concern:

Claims that the special environment that exists in Tibet continues to create conditions that result in alleged maltreatment and even death of persons held in police custody and prisons;

The important number of deaths apparently arising out of police custody.

### *Paragraph 150*

The following is recommended:

A comprehensive system should be established to review, investigate and effectively deal with complaints of maltreatment, by those in custody of every sort. If the Procuratorate is the body that carries out the investigations, it should be given the necessary jurisdiction to carry out its functions, even over the objections of the organ that it is investigating;

Conditions in prisons should be brought into conformity with article 16 of the Convention;

Access to legal counsel should be granted to all those detained, arrested or imprisoned as a matter of right and at the earliest stage of the process. Access to the family and to a medical doctor should also be accommodated;

A Rehabilitation Centre for Torture Victims should be established;

The State party should continue to train law enforcement personnel, procurators, judges and medical doctors to become professionals of the highest standing.

- Croatia, CAT, A/51/44 (1996) 25 at para. 162.

The following is recommended:

A vigorous programme of education of police, as well as prison, medical, prosecution and judicial personnel should be undertaken to ensure that they understand their obligations pursuant to the relationship between the domestic law and the international human rights regime;

Individual claims of violations of the constitutional rights of defendants in pre-trial detention should be justiciable by an effective judicial authority;

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- Russian Federation, CAT, A/52/44 (1997) 9 at paras. 42 and 43.

### *Paragraph 42*

The following is of concern:

Presidential Decrees which allow the detention of suspects incommunicado for up to 9 days in one case and 30 days in the other cases, leaves the door open to the abuse of the rights of detainees;

Widespread allegations of torture and ill-treatment of suspects and persons in custody with a view to securing confessions, general allegations of ill-treatment of detainees and the absence of effective machinery to address such complaints promptly;

The failure to establish effective machinery for the prompt examination of prisoners' complaints about ill-treatment and conditions in prisons;

The slow rate of harmonizing domestic legislation with the Constitution leaves a gap between the legal order respecting human rights established under the Constitution and the application of the law;

Overcrowding in prisons, made all the worse by the poor and insanitary conditions prevailing in them.

### *Paragraph 43*

The following is recommended:

The process of training the personnel, including the medical personnel, of all agencies involved in law enforcement and the detention of prisoners as to their powers and duties under the law should be expedited;

Programmes to inform detainees and the public of their rights and the means available under the law to protect them should be adopted;

Effective machinery to monitor the conditions under which investigations of crimes are conducted, the conditions under which persons are held in custody and conditions in prisons should be established;

An appropriate process for the prompt investigation of complaints of suspects, detainees and prisoners and the prosecution of the offenders should be established;

Conditions in prisons, including space, facilities, food and sanitation should be radically improved; and

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Acts, rules and regulations allowing remand in custody for longer than 48 hours without judicial authorization, and those limiting access to legal assistance should be abolished. Unimpeded access to counsel should be safeguarded at all times.

- Republic of Korea, CAT, A/52/44 (1997) 12 at paras. 61, 65 and 67.

### *Paragraph 61*

The fact that suspects may be detained for up to 10 days without a remand order or any form of approval by the courts is of concern.

### *Paragraph 65*

An independent governmental body should take over the inspection of detention centres and places of imprisonment. Public prosecutors, who are also part of law enforcement personnel, which may itself be subject to investigation of the crime of torture, should not be the main inspection figures.

### *Paragraph 67*

The 30- or 50-day maximum period of detention in police premises for interrogation purposes before the suspect is charged is too long and should be shortened.

- Algeria, CAT, A/52/44 (1997) 14 at para. 78.

It is of concern that detention in custody can be extended to 12 days. Decrees which allow the Minister of the Interior or his nominee to order administrative placement in custody centres with no judicial supervision are also of concern.

- Uruguay, CAT, A/52/44 (1997) 16 at para. 88.

The establishment of a working group on the national prison system, made up of representatives of non-governmental organizations, which is developing a programme of systematic visits to penal institutions, is worthy of being held up as an example.

- Poland, CAT, A/52/44 (1997) 18 at paras. 100, 105, 108 and 110.

### *Paragraph 100*

Legislation that permits periods of pre-trial detention which may prove excessive is of concern.

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### *Paragraph 105*

Reforms of the legal system which will offer the possibility of formal, effective and concrete judicial verification of the constitutionality of police custody and pre-trial detention with a view to implementing the provisions of the Convention are recommended.

### *Paragraph 108*

The period of pre-trial detention should be shortened and the possibility of extending it for two years should be abolished.

### *Paragraph 110*

The likelihood of commission of acts of torture or of other cruel, inhuman or degrading treatment would be limited if suspects had easy access to a lawyer, doctor or family member during the 48 hours of police custody.

- Georgia, CAT, A/52/44 (1997) 20 at paras. 120 and 121.

### *Paragraph 120*

The following is of concern:

The grossly inadequate conditions in places of detention, including prisons;

The alarming number of deaths in prison;

The unwillingness of many law enforcement officers to respect, in the exercise of their duties, the rights of persons under investigation and of prisoners;

The absence of proper guidelines for the taking of statements from persons under arrest and of firm criteria for their evidential evaluation.

### *Paragraph 121*

The following is recommended:

*Incommunicado* detention should be abolished;

Rigorous educational programmes for the police, prison officers, doctors, prosecutors and judges should be implemented to ensure that each group understands its constitutional role and its obligations under the Convention;

Resources should be made available to improve prison conditions as a matter of urgency, including the provision of appropriate medical facilities;

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A monitoring body with comprehensively defined authority should be established to keep under constant review the conditions in which investigations are conducted and persons are held in custody;

- Ukraine, CAT, A/52/44 (1997) 23 at paras. 133, 137, 146, 147 and 149.

### *Paragraph 133*

The legislation in force fails to provide any effective judicial control of the lawfulness of arrests.

### *Paragraph 137*

The conditions prevailing in premises used for holding persons in custody and in prisons may be described as inhuman and degrading, and cause suffering and the impairment of health.

### *Paragraph 146*

Interrogation of any person detained or arrested without the participation of defence counsel or when the person is being held incommunicado should be prohibited by law.

### *Paragraph 147*

The 18-month maximum period during which an accused person may be held in custody is considered excessive and should be reduced.

### *Paragraph 149*

A radical reform of correctional institutions, such as colonies and prisons, and places of pre-trial detention is considered essential to ensure full compliance with the provisions of the Convention. Solitary confinement and especially conditions of imprisonment give rise to particular concern.

- Mexico, CAT, A/52/44 (1997) 26 at para. 167.

Procedures to inform detainees of their rights should be developed. Detainees should be immediately and directly informed of their rights by public officials at the time of arrest and those rights should be posted in all detention centres, prosecutors' offices and courthouses.

- Denmark, CAT, A/52/44 (1997) 28 at paras. 181, 186 and 188.

### *Paragraph 181*

The institution of solitary confinement, particularly as a preventive measure during pre-trial detention, but also as a disciplinary measure, for example, in cases of repeated refusal to work is of concern.

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### *Paragraph 186*

Except in exceptional circumstance, the use of solitary confinement should be abolished, particularly during pre-trial detention, or at least should be strictly and specifically regulated by law (maximum duration, etc.) and judicial supervision should be introduced.

### *Paragraph 188*

All complaints of ill-treatment lodged by detainees should be handled by independent bodies.

### *See also:*

- Norway, CAT, A/53/44 (1998) 16 at para. 156.
- Iceland, CAT, A/54/44 (1999) 8 at para. 59.
  
- Paraguay, CAT, A/52/44 (1997) 30 at paras. 202, 208 and 209.

### *Paragraph 202*

The existence of a legal arrest warrant does not, under any circumstances, justify torture. Cases involving persons in *flagrante delicto* aside, the fact that many arrests are made without a previously issued warrant from the competent authority facilitates the practice of torture and cruel, inhuman or degrading treatment. This is the result of the clandestine circumstances in which these arrests take place, and because the victims may remain at the disposal of their captors for longer than the 24-hour period within which, according to the Constitution, detainees must be brought before the competent judge.

### *Paragraph 208*

Rules and instructions on the matters referred to in article 11 of the Convention should be issued, and systematic procedures for the supervision and monitoring of compliance therewith should be established and maintained in order to eliminate the practice of torture and other cruel, inhuman or degrading treatment or punishment.

### *Paragraph 209*

Physical conditions in prisons should be improved and the conditions of prisoners in detention should be made compatible with human dignity.

- Sweden, CAT, A/52/44 (1997) 33 at para. 225.

Solitary confinement should be abolished, particularly during the period of pre-trial detention, other than in exceptional cases, *inter alia*, when the security or the well-being of persons or property are in danger, and the measure is applied, in accordance with the law and under judicial control.

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- Namibia, CAT, A/52/44 (1997) 35 at paras. 237, 244 and 248.

### *Paragraph 237*

The fact that in many cases, because of the lack of judicial personnel, pre-trial detention extends for up to one year is deeply regretted.

### *Paragraph 244*

Independent governmental bodies consisting of persons of high moral standing should be appointed to take over the inspection of detention centres and places of imprisonment. The Government should also establish an independent authority to deal with complaints against members of the Police Department.

### *Paragraph 248*

Traditional leaders in community courts in Namibia should either be effectively made to comply with the legal limits of their power to order pre-trial detainment of suspects or they should be stripped of their power to order such pre-trial detention.

- Argentina, CAT, A/53/44 (1998) 8 at paras. 58, 65 and 68.

### *Paragraph 58*

Implementation of the following provisions of the new Code of Criminal Procedure should help prevent the practice of torture: prohibiting the police from taking a statement from a person who has been charged; strictly limiting cases in which the police may detain persons without a court order and obliging them to bring the detainee before the competent judicial authority immediately or within six hours; limiting the length of incommunicado detention; and stipulating that the fact that an individual is being held incommunicado may under no circumstances prevent him from communicating with his defence counsel before making any statement or before any proceeding requiring his personal participation.

### *Paragraph 65*

Despite the mandatory limitations on the situations in which the police can make arrests without a court order, the provisions for the protection of the safety of citizens are infringed by the application of lesser rules or provisions such as police regulations concerning misdemeanours and arrests for identity checks.

### *Paragraph 68*

A reasonable time limit should be set for preliminary investigations. Undue prolongation of this pre-trial stage represents a form of cruel treatment of the individual concerned, even if he is not deprived of his freedom. The law should specify a reasonable time limit for pre-trial detention and



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for the completion of criminal proceedings.

- Switzerland, CAT, A/53/44 (1998) 11 at paras. 95, 96 and 99.

### *Paragraph 95*

Harmonization of the various cantonal laws governing criminal procedure, especially as regards fundamental guarantees during police custody or when persons are held incommunicado is recommended.

### *Paragraph 96*

The need to allow suspects to contact a lawyer or family member or friend and to be examined by an independent doctor immediately upon their arrest, or after each session of questioning, and before they are brought before an examining magistrate or released is emphasized.

### *Paragraph 99*

The adoption of legislative measures granting suspects the right to remain silent is recommended.

- Cuba, CAT, A/53/44 (1998) 12 at paras. 111 and 118.

### *Paragraph 111*

The information disclosed in some reports suggests that there occur serious violations of the Convention with regard to arrest, detention, prosecution, access to counsel and imprisonment of individuals, especially persons referred to in the reports as dissidents, and that serious violations occur in prisons affecting the safety, dignity and health of prisoners.

### *Paragraph 118*

The following actions are recommended:

The incorporation into the law of the right of the suspect or detainee to silence at all stages of investigation;

The establishment of a system of recurrent review of prisons as required by article 11 of the Convention with a view to improving conditions in prisons;

The setting up of a comprehensive programme, which should be kept under constant review, for educating and training law enforcement personnel, medical personnel, public officials and all those involved in the interrogation, custody or treatment of any person arrested, detained or imprisoned;

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- Spain, CAT, A/53/44 (1998) 14 at paras. 131 and 135.

### *Paragraph 131*

Prolonged detention incommunicado, when the detainee cannot receive the assistance of a lawyer of his choice, seems to facilitate the practice of torture.

### *Paragraph 135*

Eliminating instances in which extended detention incommunicado and restrictions of the rights of detainees to be assisted by a defence lawyer of their choice should be considered.

- New Zealand, CAT, A/53/44 (1998) 19 at paras. 175 and 177.

### *Paragraph 175*

Allegations that prisoners were molested by the guards with fists and legs, that they were not provided with medical treatment and were deprived of food and proper places of detention cannot be considered as instances of torture, although they amount to cruel and degrading treatment.

### *Paragraph 177*

It is important to strengthen the supervision of prisons to prevent the misuse and abuse of power by prison personnel.

- Germany, CAT, A/53/44 (1998) 19 at paras. 187, 189 and 195.

### *Paragraph 187*

The incidents of suicide of persons in detention while awaiting deportation is of concern.

### *Paragraph 189*

Open-ended legal provisions permitting, under certain circumstances, the discretionary but significant reduction of the legal guarantees of those detained by the police, such as provisions permitting the police in certain cases to refuse permission to someone detained at a police station to notify a relative of his arrest, are of concern. Likewise, referring to the "the principle of proportionality", unless with respect to specific and binding decisions of the courts, may lead to arbitrary reductions in such guarantees.

### *Paragraph 195*

Germany should continue its efforts to ensure that all detainees, at the outset of their custody, be given a form in a language they understand, outlining their rights, including the right to be informed of the reason for their arrest, to contact a relative and a lawyer of their choice, to submit a complaint about their treatment and to receive medical assistance.

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- Panama, CAT, A/53/44 (1998) 22 at para. 213.

Panamanian legislation contains appropriate safeguards for the effective protection of human rights and especially the prevention of torture, in particular the maximum period of 24 hours, subject to no exception, within which a detainee must be brought before the competent judicial authority, and the prohibition against holding anybody incommunicado.

- Israel, CAT, A/53/44 (1998) 23 at paras. 238 and 241.

### *Paragraph 238*

Administrative detention in the occupied territories for inordinately lengthy periods and for reasons that do not bear on the risk posed by releasing some detainees is of concern.

### *Paragraph 241*

The practice of administrative detention in the occupied territories should be reviewed in order to ensure its conformity with article 16.

- Sri Lanka, CAT, A/53/44 (1998) 24 at para. 253.

The question of admissibility under the emergency regulation of confessions is a matter of concern, as is the absence of strict legislation governing detention that is consistent with international norms.

- Yugoslavia, CAT, A/54/44 (1999) 6 at para. 51.

In order to diminish the recurrence of torture, the State party should legally and practically ensure the independence of the judiciary, the unrestricted access to counsel immediately after arrest, the shortening of the length of police custody to a maximum period of 48 hours, the shortening of the period of pre-trial post-indictment detention, strict exclusion of all evidence directly or indirectly derived from torture, effective civil redress and a vigorous criminal prosecution in all cases of torture and breaches of article 16 of the Convention.

- Iceland, CAT, A/54/44 (1999) 8 at para. 60.

The State party should review the provisions regulating solitary confinement during pre-trial detention in order to reduce considerably the cases to which solitary confinement could be applicable.

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- Hungary, CAT, A/54/44 (1999) 10 at para. 83.

Conditions in prisons, detention centres and holding centres for refugees such as, *inter alia*, overcrowding, lack of exercise, education and hygiene are of concern.

- Tunisia, CAT, A/54/44 (1999) 11 at paras. 97, 98, 102 and 103.

### *Paragraph 97*

The fact that many of the regulations existing in Tunisia for arrested persons are not adhered to in practice are of concern, in particular:

The limitation of pre-trial detention to the 10-day maximum prescribed by law;

The immediate notification of family members;

The requirement of medical examination with regard to allegations of torture;

The carrying out of autopsies in all cases of death in custody.

### *Paragraph 98*

It is noted that arrests are very often made by plain-clothes agents who refuse to show any identification or warrant.

### *Paragraph 102*

The State party is called upon to put an end to the degrading practice of torture and in particular to take up the following measures:

To ensure strict enforcement of the provisions of law and procedures of arrest and police custody;

To strictly enforce the procedures of registration, including notification of families of persons taken into custody;

To ensure that medical examinations are automatically provided following allegations of abuse and an autopsy is performed following any death in custody; and that the findings of all investigations concerning cases of torture are made public, and that this information includes details of any offences committed, the names of the offenders, the dates, places and circumstances of the incidents and the punishment received by those who were found guilty.

### *Paragraph 103*

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The State party is urged to reduce the police custody period to a maximum of 48 hours.

- Venezuela, CAT, A/54/44 (1999) 16 at para. 140.

The overcrowding in prisons, where capacity is exceeded by over 50 per cent, the lack of segregation of the prison population, the fact that almost two thirds of prisoners are awaiting trial and the endemic violence rampant in Venezuelan jails mean that prisoners are permanently subjected to forms of inhuman or degrading treatment.

- Bulgaria, CAT, A/54/44 (1999) 18 at para. 162.

All prisoners' correspondence addressed to international bodies of investigation or to settlement of disputes should be excluded from "censor checks" by prison personnel or other authorities.

- Italy, CAT, A/54/44 (1999) 19 at para. 167.

Prison systems that are overcrowded and lacking in facilities make the overall conditions of detention not conducive to the efforts of preventing inhuman or degrading treatment or punishment.

- Luxembourg, CAT, A/54/44 (1999) 20 at paras. 174 and 175.

### *Paragraph 175*

The excessive length and frequent use of strict solitary confinement of detainees and the fact that this disciplinary measure may not be the subject of appeal is of concern.

### *Paragraph 175*

The State party should end, as soon as possible, the practice of placing young offenders, including minors, in the prison for adults.

- Libyan Arab Jamahiriya, CAT, A/54/44 (1999) 20 at paras. 182 and 187.

### *Paragraph 182*

Prolonged *incommunicado* detention, in spite of the legal provisions regulating it, still seems to create conditions that may lead to violation of the Convention.

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### *Paragraph 187*

Authorities should guarantee the free access of a person deprived of his liberty to a lawyer and to a doctor of his choice and to his relatives at all stages of detention.

- Egypt, CAT, A/54/44 (1999) 22 at paras. 210 and 213.

### *Paragraph 210*

Allegations that persons have been held in police or State Security Intelligence custody in defiance of court orders to release them are of serious concern.

### *Paragraph 213*

A proper registry of detainees, by both police and State Security Intelligence, which is accessible to members of the public, should be established and maintained.

- Malta, CAT, A/55/44 (2000) 10 at para. 44.

The following developments are welcomed:

The improvement of correctional facilities and, in particular, the arrangements for the housing of illegal immigrants in dormitories formerly used by police staff.

The entrusting of the supervision of asylum seekers to the ordinary police instead of the Special Assignment Group.

- Finland, CAT, A/55/44 (2000) 12 at paras. 53-55.

### *Paragraph 53*

The legal measures taken to accommodate asylum seekers in places other than prison are noted with satisfaction.

### *Paragraph 54*

The use of isolation in certain cases of pre-trial detention, initially authorized by a judge, but whose terms of implementation are decided upon administratively is of concern.

### *Paragraph 55*

The law governing isolation in pre-trial detention places should be changed by establishing judicial supervision for the determination of the isolation, its duration and its maximum period.

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

### *Paragraph 59*

Concern is expressed about the following:

The period of *incommunicado* pre-trial detention of 15 days for persons suspected of acts of terrorism.

The automatic penalty of at least one year of solitary confinement from the date of trial for anyone convicted of a terrorism offence.

The special prison regime applicable to convicted terrorists and in particular to convicted terrorist leaders.

### *Paragraph 61*

It is recommended that:

The period of pre-trial *incommunicado* detention should be abolished.

The *automatic* period of solitary confinement for persons convicted of terrorist offences should be abolished.

The special regime that applies to convicted terrorists should be reviewed with a view to the gradual abolition of the virtual isolation and other restrictions that are inconsistent with the provisions of article 16 and may in certain cases amount to torture as defined in Article 1 of the Convention.

- Kyrgyzstan, CAT, A/55/44 (2000) 17 at paras. 72 and 75.

### *Paragraph 72*

The provisions of the new Code of Criminal Procedure permitting a detained person access to the lawyer of his choice from the moment of detention and obliging the investigating officer to notify the detained person's family of his arrest from the moment of arrest are noted with satisfaction.

### *Paragraph 75*

It is recommended that the State party take measures to improve prison conditions, taking into account the 1955 Standard Minimum Rules for the Treatment of Prisoners.

- Portugal, CAT, A/55/44 (2000) 22 at para. 105.

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The State party should continue to take such steps as are necessary to curtail inter-prisoner violence.

- El Salvador, CAT, A/55/44 (2000) 28 at paras. 157 and 158.

### *Paragraph 157*

The promulgation and effective observance of the new Penal Code and Code of Criminal Procedure, whose provisions include important guarantees for the protection of fundamental human rights, should contribute to better fulfilment of the State's obligations under the Convention.

### *Paragraph 158*

Among those provisions, particular importance is attached to the following:

The requirement of written orders authorizing detentions, and the establishment of strict time limits within which a detainee must be brought before a court and the court must give a ruling regarding the detainee's release or remand.

The creation of prison supervision courts responsible for ensuring the proper enforcement of sentences and respect for the rights of all persons deprived of liberty.

- United States of America, CAT, A/55/44 (2000) 31 at paras. 179 and 180.

### *Paragraph 179*

Concern is expressed over:

The number of cases of police ill-treatment of civilians, and ill-treatment in prisons (including instances of inter-prisoner violence). Much of this ill-treatment by police and prison guards seems to be based upon discrimination.

The excessively harsh regime of the "supermaximum" prisons.

### *Paragraph 180*

The State party should ensure that minors (juveniles) are not held in prison with the regular prison population.

- The Netherlands, CAT, A/55/44 (2000) 33 at para. 188.



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It is recommended that effective measures should continue to be taken to bring to an end the deplorable conditions of detention at Koraal Specht prison. The practice of controlling prison discipline by the use, on a virtually daily basis, of riot squads, should be reviewed and, in particular, efforts should be made to develop alternative means to prevent inter-prisoner violence. Such means should include the proper training of prison personnel.

- Slovenia, CAT, A/55/44 (2000) 34 at paras. 205 and 209.

### *Paragraph 205*

Allegations about the excessive use of force by the police in connection with arrests are of concern.

### *Paragraph 209*

The necessary steps should be taken to prevent the misuse of force by the police against members of the Roma population and other minorities, particularly, in connection with arrests and detention.

- Armenia, CAT, A/56/44 (2001) 17 at paras. 37 and 39.

### *Paragraph 37*

The fact that the rights of persons deprived of liberty are not always respected is of concern.

Poor prison conditions and the fact that prisons come under the authority of the Ministry of the Interior are also matters of concern.

### *Paragraph 39*

The following is recommended:

Counsel, family members and the doctor of their own choice must be guaranteed immediate access to persons deprived of liberty.

The State party is invited to establish a truly independent and operational system for the inspection of all places of detention, whether Ministry of the Interior, Ministry of Justice or Ministry of Defence facilities.

The State party is encouraged to continue education and training activities on the prevention of torture and the protection of individuals from torture and ill-treatment for police and for the staff of prisons, including Ministry of the Interior facilities and military prisons.

As soon as possible the State party should adopt the draft Penal Code, which abolishes the death penalty, in order to resolve the situation of the many persons who have been sentenced to death and

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who are being kept in uncertainty amounting to cruel and inhuman treatment in breach of article 16 of the Convention.

- Belarus, CAT, A/56/44 (2001) 19 at paras. 45 and 46.

### *Paragraph 45*

The Committee is concerned about:

The lack of an independent procuracy, in particular, as the Procurator has the competence to exercise oversight on the appropriateness of the duration of pre-trial detention, which can be for a period of up to 18 months.

The overcrowding, poor diet and lack of access to basic hygiene facilities and adequate medical care, as well as the prevalence of tuberculosis, in prisons and pre-trial detention centres.

The continuing use of the death penalty, and the inadequate procedures for appeals, lack of transparency about those being held on death row and the reported refusal to return the bodies of those executed to their relatives, inhibiting any investigation into charges of torture or ill-treatment of them in prison.

### *Paragraph 46*

It is recommended that:

Efforts be made to improve conditions in prisons and pre-trial detention centres and that the State party establish a system allowing for inspections of prisons and detention centres by credible impartial monitors, whose findings should be made public.

Provide independent judicial oversight of the period and conditions of pre-trial detention.

- Australia, CAT, A/56/44 (2001) 22 at paras. 52 and 53.

### *Paragraph 52*

Concern is expressed about the following:

Use of instruments of physical restraint that may cause unnecessary pain and humiliation by prison authorities.

Allegations of excessive use of force or degrading treatment by police forces or prison guards.

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Allegations of intimidation and adverse consequences faced by inmates who complain about their treatment in prisons.

Legislation imposing mandatory minimum sentences, which has allegedly had a discriminatory effect regarding the indigenous population (including women and juveniles), who are over-represented in statistics for the criminal justice system.

### *Paragraph 53*

It is recommended that:

The State party continue its education and information efforts for law enforcement personnel regarding the prohibition against torture, and improve further its efforts in training, especially of police, prison officers and prison medical personnel.

The State party keep under constant review the use of instruments of restraint that may cause unnecessary pain and humiliation, and ensure that their use is appropriately recorded.

The State party ensure that complainants are protected against intimidation and adverse consequences as a result of their complaint.

The State party continue its efforts to reduce overcrowding in prisons.

The State party keep under careful review legislation imposing mandatory minimum sentences, to ensure that it does not raise questions of compliance with its international obligations under the Convention and other relevant international instruments, particularly with regard to the possible adverse effect upon disadvantaged groups.

- Canada, CAT, A/56/44 (2001) 24 at para. 58.

Concern is expressed over:

Allegations that female detainees have been treated harshly and improperly by the authorities of the State party, and that many recommendations of the Arbour report remain to be implemented.

The over-representation of aboriginal people in prison throughout the criminal justice system in the State party.

- Cameroon, CAT, A/56/44 (2001) 28 at paras. 65 and 66.

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### *Paragraph 65*

The following is of concern:

The continuing practice of administrative detention, which allows the authorities reporting to or forming part of the executive power (the Ministry of the Interior) to violate individual liberty, something which, under the rule of law, should come under the jurisdiction of the judiciary.

The maintenance of the prison administration under the authority of the Ministry of the Interior.

### *Paragraph 66*

It is recommended that the State party:

Ensure the effective implementation of the instructions from the Minister of Justice that pre-trial detention must take place only when absolutely necessary and that provisional release should be the rule, especially since this could help to deal with the problem of prison overcrowding.

Consider transferring responsibility for prison administration from the Ministry of the Interior to the Ministry of Justice.

Ensure scrupulous respect for the human rights of persons arrested in the context of efforts to combat highway robbery.

Scrupulously maintain a registry of detained persons and make it publicly accessible.

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

### *Paragraph 81*

Concern is expressed over the following:

The lack of adequate access for persons deprived of liberty to counsel and doctors of their choice as well as visits of family members.

The unacceptable conditions in prisons, which may violate the rights of persons deprived of their liberty as contained in article 16.

### *Paragraph 82*

It is recommended that :

Measures be taken to ensure that all persons deprived of their liberty or arrested by law enforcement officials: i) are informed promptly of their rights, including the right to complain to the authorities

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against ill-treatment, the right to be informed promptly of the charges against them and the right to counsel and doctor of their choice; ii) have prompt access to counsel and doctor of their choice as well as family members.

The State party should desist from the practice by its law enforcement officers of characterizing suspects under detention as witnesses, which has had the effect of denying them the right to have the assistance of a lawyer.

Urgent measures be taken to improve conditions of detention in police and prison establishments.

Steps be taken to continue education and training activities on the prevention of torture and the protection of individuals from torture and ill-treatment for police and for the staff of prisons, as well as for forensic experts and medical personnel in prisons in examining victims of torture and documenting acts of torture.

- Greece, CAT, A/56/44 (2001) 38 at paras. 87 and 88.

### *Paragraph 87*

Concern is expressed that, although the domestic legislation provides a satisfactory framework for protecting human rights in general and of certain Convention rights in particular, difficulties in effective implementation remain, which may amount to a breach of the Convention:

The harsh conditions of detention in general and, in particular, the long-term detention of undocumented migrants and/or asylum-seekers awaiting deportation in police stations without adequate facilities.

The severe overcrowding in prisons which aggravates the already sub-standard material conditions and which may contribute to inter-prisoner-violence.

### *Paragraph 88*

It is recommended that:

Urgent measures be taken to improve conditions of detention in police stations and prisons and that undocumented migrants and/or asylum seekers who have not been convicted of a criminal offence not be held for long periods in such institutions.

Such measures as are necessary to prevent overcrowding of prisons should be taken as well as continuing steps to find alternative penalties to imprisonment and to ensure their effective implementation.

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Steps be taken to create detention facilities for undocumented migrants and/or asylum seekers separate from prison or police institutions and urges the State party to complete its proposed new building construction for aliens as a matter of urgency.

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

### *Paragraph 95*

Concern is expressed with respect to the following:

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 therefor;

Judicial delays which would appear to affect two thirds of the prison population, who are kept waiting for their cases to be heard, a situation which is largely responsible for the serious overcrowding of prisons;

Overcrowding, lack of amenities and poor hygiene in prisons, the lack of basic services and of appropriate medical attention in particular, the inability of the authorities to guarantee the protection of detainees in situations involving violence within prisons. In addition to contravening the United Nations Standard Minimum Rules for the Treatment of Prisoners, these and other serious inadequacies aggravate the deprivation of liberty of prisoners serving sentences and those awaiting trial, making such deprivation cruel, inhuman and degrading punishment and, in the case of the latter, punishment served in advance of sentence;

Information it has received regarding the inhuman conditions under which prisoners are held in the facilities known as *carceletas* in the Chapare area, Santa Cruz, Cochabamba and other cities in which, in addition to the illegal nature of the so-called “legal deposit” imprisonment which does not exist in domestic law, detainees are held in subhuman conditions for indeterminate periods, sometimes lasting several months, and where juvenile and adult detainees are held together, as are prisoners awaiting trial and those already serving sentences. In addition, the disciplinary confinement in punishment cells of the kind known as *el bote* (the can) is tantamount to torture;

The excessive and disproportionate use of force and firearms by the National Police and the armed forces in suppressing mass demonstrations resulting from social conflicts which, by remaining unpunished, encourage the repetition of such abuses and appear to indicate tacit approval on the part of the authorities. The torture, arbitrary detention and ill-treatment perpetrated by the police and military forces in their own facilities are particularly serious during periods when a state of siege has been declared.

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### *Paragraph 97*

It is recommended that the State party:

Adopt the necessary legal and administrative measures to set up a national public register of persons deprived of liberty, indicating the authority which ordered such deprivation, the grounds for the relevant decisions and the type of proceedings;

Review the disciplinary procedures and rules in prisons so as to ensure that violations are dealt with impartially and that any inhuman and cruel punishments are excluded.

- Slovakia, CAT, A/56/44 (2001) 43 at paras. 104 and 105.

### *Paragraph 104*

Concern is expressed about the following:

Allegations that law enforcement officials have ill-treated detainees during detention and in police custody, particularly in lock-ups and police cells.

The lack of adequate guarantees of the rights of persons deprived of liberty to have access to counsel and a doctor of his or her choice, as well as prompt medical exams.

### *Paragraph 105*

It is recommended that the State party:

Take measures to initiate an effective, reliable and independent complaint system to undertake prompt, impartial, and effective investigations into allegations of ill-treatment or torture by police and other public officials, and where the findings are warranted, to prosecute and punish alleged perpetrators.

Adopt measures to prevent inter-prisoner violence, including sexual violence, in places of detention.

- Czech Republic, CAT, A/56/44 (2001) 46 at paras. 113 and 114.

### *Paragraph 113*

Concern is expressed over the following:

The lack of adequate guarantees of the rights of persons deprived of liberty to notify a close relative or third party of their choice, to have access to doctors of their choice and to have access to counsel as from the outset of their custody.

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The lack of legal regulation of external inspections of the prison system, in particular the rescinding of the legal provisions on civil inspection without replacement during the period under review, as well as the lack of an effective mechanism for processing prisoners' complaints.

Inter-prisoner violence and bullying in various institutions, including prisons, the military and educational institutions, as well as the presence of male guards in prisons for women where it may lead to an abuse of their authority.

### *Paragraph 114*

All persons deprived of their liberty should be guaranteed the rights to notify a close relative or third party of their choice, the right to have access to a lawyer of their choice, as from the very outset of their custody, and the right to have access to a doctor of their choice in addition to any medical examination carried out by the police authorities. The State party should set up an effective and independent system of control over prisoners complaints and for the external and civic inspection of the prison system.

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

### *Paragraph 119*

Concern is expressed about the following:

The overcrowding, lack of amenities and poor hygiene in prisons, the lack of basic services and of appropriate medical attention in particular, and violence between prisoners and sexual abuse. There is particular concern about allegations of ill-treatment and discriminatory treatment of certain groups with regard to access to the already limited essential services, notably on the basis of social origin or sexual orientation;

The long periods of pre-trial detention and delays in judicial procedure which, together with the overcrowding in prisons, have resulted in convicted prisoners and prisoners awaiting trial being held in police stations and other places of detention not adequately equipped for long periods of detention, a fact which could in itself constitute a violation of the provisions of article 16 of the Convention.

### *Paragraph 120*

Urgent measures should be taken to improve conditions of detention in police stations and prisons, and the State party should, moreover, redouble its efforts to remedy prison overcrowding and establish a systematic and independent system to monitor the treatment in practice of persons arrested, detained or imprisoned.

- Kazakhstan, CAT, A/56/44 (2001) 52 at para. 129.



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It is recommended that the State party:

Proceed with the adoption of measures to permit defence counsel to gather evidence, and to be involved in cases from the very start of the detention period, and to ensure that doctors will be provided on the request of detained persons, rather than the orders of prison officials.

Improve conditions in prisons and pre-trial detention centres and establish a system allowing for inspections of prisons and detention centres by credible impartial monitors, whose findings should be made public. The State party should also take steps to shorten the current 72-hour pre-trial detention period and avoid prolonged arrest and detention prior to trial.

Complete the transfer of responsibilities for prisons from the Ministry of Internal Affairs to the Ministry of Justice, permitting the demilitarization of the penitentiary system.

Provide independent judicial oversight of the period and conditions of pre-trial detention.

- Costa Rica, CAT, A/56/44 (2001) 55 at paras. 134 and 135.

### *Paragraph 134*

The following is noted with satisfaction:

The explicit inclusion in the Constitution and laws of the rights and guarantees of every person deprived of liberty, in particular:

- (i) The requirement of a written arrest warrant issued by a competent authority, except in cases of *flagrante delicto*;
- (ii) The obligation of the person making an arrest to inform the arrested person of the reason for his arrest and his rights to remain silent, to inform anyone he wishes of the arrest and to have the services of a defence counsel of his choice;
- (iii) The time limit of six hours set for the police to bring the detainee before a member of the Public Prosecutor's Office and 24 hours to place him at the disposal of a judge, and the exclusion of arrest on suspicion.
- (iv) The planned construction and renovation of prisons.

### *Paragraph 135*

Concern is expressed about the following:

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The overpopulation of prisons, which has led to overcrowding, caused by inadequate investment in prison infrastructure and the use of deprivation of liberty and longer prison sentences as virtually the sole response to an increase in crime;

The maximum-security detention regime, comprising 23 hours of confinement and just one hour outside the cell, appears excessive.

### **CRC**

- Bolivia, CRC, CRC/C/16 (1993) 13 at para. 38.

With regard to articles 37 and 40, concern is expressed over the fact that there are not adequate safeguards to ensure non-discrimination in the implementation of these provisions of the Convention. The present discretionary procedure of considering the "personality" of the child as a criteria for passing sentences is also of concern. This practice, in its actual application, may often be discriminatory against children living in poverty. The inadequate separation of children from adults in detention and that a child may remain in custody for the excessively long period of 45 days before the legality of his or her detention is decided upon are also matters of concern. The age for legal counselling without parental consent is unclear and practices in this regard may not be in conformity with article 37 (d) of the Convention.

- Sweden, CRC, CRC/C/16 (1993) 16 at para. 54.

Concern is expressed over the fact that it is not ensured that children in detention are separated from adults. The practice of taking foreign children into custody under the Aliens Act is also of concern, as this practice is discriminatory in so far as Swedish children generally cannot be placed in custody until after the age of 18.

- Egypt, CRC, CRC/C/16 (1993) 24 at para. 106.

Adequate protection should be afforded to children in conflict with the law. The appropriate amendments should be made to the Juveniles Act No. 31 of 1974 to adequately reflect the provisions of the Convention as well as other international standards in this field, such as the "Beijing Rules", the "Riyadh Guidelines" and the Rules for the Protection of Juveniles Deprived of their Liberty. In that regard it is suggested that the general principles relating to the best interest and dignity of the child and their role in society, be taken into account. Deprivation of liberty should always be

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envisaged as the very last resort, and particular attention should be paid to rehabilitation measures, psychological recovery and social reintegration. Furthermore, deprivation of liberty in social care institutions should be regularly monitored by a judge or an independent body.

- Burkina Faso, CRC, CRC/C/29 (1994) 15 at para. 71.

The sanctions set forth in the legislation as regards juvenile offenders, especially in cases carrying the death penalty or life imprisonment, reduced respectively to life imprisonment or to 20 years' imprisonment, are excessively high. Harsh sentences, as well as the occurrence of arbitrary detention of juveniles and the admittedly very difficult conditions of detention, are not in conformity with the provisions of articles 37 and 40 of the Convention.

- Jordan, CRC, CRC/C/29 (1994) 21 at para. 122.

In the field of the administration of juvenile justice, concern is expressed over the application of article 92 of the Penal Code, in accordance with which, although no one under 18 years of age may be held criminally responsible, criminal proceedings may be brought against children over 7 years of age. It is also deplorable that children taken into custody though not convicted of any criminal offence, may nevertheless be kept in detention in the same premises as convicted persons.

- Nicaragua, CRC, CRC/C/43 (1995) 10 at para. 50.

The absence of measures to create a juvenile justice system moulded to the needs and protecting the rights of children is noted. In this regard, it is of concern that as mechanisms for alternative treatment are lacking, the system currently in place appears to be unable to respond to the needs of children below the age of 15 who have behavioural problems. Similarly, with respect to the situation of 15- to 18-year-olds who find themselves involved with the administration of justice system, there appears to be an absence of alternative measures to detention for such children and difficulties in ensuring the separation of juveniles from adults in prisons. The information contained in the State party's report, which highlights the problems associated with the lack of sufficient training in children's rights of law enforcement officials which has contributed to infringements of the rights of the child, is also noted.

- Belgium, CRC, CRC/C/43 (1995) 20 at para. 106.

Concern is expressed about the possibility of relinquishment of jurisdiction provided for in article 38

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of the Young Persons' Protection Act which allows for young persons between 16 and 18 to be tried as adults and thereby face the imposition of a death sentence or a sentence of life imprisonment. Article 53 of the same Act is also of concern since it states that children may be kept in prison for a period of 15 days and be kept in isolation.

- Lebanon, CRC, CRC/C/54 (1996) 7 at para. 43.

The field of juvenile justice and treatment of young offenders requires further reform. Problems appear to exist in relation to the low age of criminal responsibility, non-separation of children from adult detainees, the lack of available health and educational facilities for young detainees, the existence and length of pre-trial custody and the non-availability of legal assistance.

- Nepal, CRC, CRC/C/54 (1996) 25 at paras. 173 and 187.

### *Paragraph 173*

The situation of the administration of juvenile justice and in particular its compatibility with articles 37 and 40 of the Convention, as well as other relevant standards such as the "Beijing Rules", the "Riyadh Guidelines" and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, is a matter of concern. Other concerns are the too low age of criminal responsibility, the provision of the Muluki Ain No. 2 that allows mentally ill children to be put in jail and chained, and the legal definition of torture which is not in compliance with article 37 (a) of the Convention.

### *Paragraph 187*

In the field of juvenile justice, legal reform should be pursued and should take fully into account the Convention on the Rights of the Child, in particular articles 37, 39 and 40, and other relevant international standards in this field, such as the "Beijing Rules", the "Riyadh Guidelines" and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to raising the minimum age of criminal responsibility, the establishment of juvenile courts, the enforcement of existing legislation, the prevention of juvenile delinquency, alternatives to deprivation of liberty and institutional care, the protection of the rights of children deprived of liberty, respect for fundamental rights and legal safeguards in all aspects of the juvenile justice system, and the full independence and impartiality of the juvenile judiciary. The law permitting the placement of mentally disturbed children in jails should be reviewed as a matter of urgency.

- Nigeria, CRC, CRC/C/57 (1996) 10 at para. 74.

The provisions of national legislation by which a child may be detained "at Her Majesty's Pleasure" may permit the indiscriminate sentencing of children for indeterminate periods. Furthermore, the

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provisions of national legislation which provide for the detention of children assessed to be "beyond parental control" are a worry. The possibility that abandoned children or children living and/or working on the street would have such measures applied against them is of special concern. These legislative measures do not appear to be compatible with the provisions of article 37 (b) of the Convention, which lays down that the arrest, detention or imprisonment of a child shall only be used as a measure of last resort and for the shortest appropriate period of time. Equally, the application in practice of the provisions of section 3 of the Children and Persons Law may lead to the arbitrary detention of children, which is incompatible with the provisions and principles of the Convention.

- Slovenia, CRC, CRC/C/57 (1996) 34 at paras. 212 and 220.

### *Paragraph 212*

The low age set for criminal responsibility, and the length of preliminary investigation and of pre-trial detention are of particular concern.

### *Paragraph 220*

All appropriate measures should be taken to reduce the length of preliminary investigation and of pre-trial detention.

- Bulgaria, CRC, CRC/C/62 (1997) 7 at para. 36.

The insufficient consideration of the principle of the best interests of the child in tackling situations of detention, institutionalization and abandonment of children, as well as in relation to the right of the child to testify in court, is of concern.

- Ethiopia, CRC, CRC/C/62 (1997) 12 at para. 79.

Of particular concern is the setting of the age of criminal responsibility at 9 years and treating those of 15 years of age as adults. In this regard, the Committee regrets that it was not made clear during the discussion whether the latter means that children above 15 years of age may be sentenced to life imprisonment or detained together with adults. Furthermore, concern is expressed at the possibility, mentioned above, provided for in article 172 of the Penal Code to sentence children to corporal punishment at the sole discretion of the judge, in particular with regard to the "bad or good character" of the child in determining the penalty to be applied to the child, and at the possible limitations of the right to legal counsel.

- Myanmar, CRC, CRC/C/62 (1997) 25 at para. 180.

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Particular attention should be paid to using deprivation of liberty only as a measure of last resort and for the shortest possible period of time; to ensuring humane conditions of detention, taking into account the specific needs of children including separation from adult detainees; to the rights of the child to legal assistance and judicial review; to due process of law; and to the full independence and impartiality of the judiciary. Training programmes on the relevant international standards should be organized for all those professionals involved with the system of juvenile justice. An independent monitoring mechanism, national and/or international, should guarantee the full implementation of those rights. Finally, international assistance in the area of the administration of juvenile justice from the High Commissioner/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the Secretariat should be considered.

- Ghana, CRC, CRC/C/66 (1997) 15 at para. 101.

Violations of the rights of the child in detention centres, the low age (7 years old) for criminal responsibility and the inadequacy of existing alternative measures to imprisonment are matters of particular concern.

- Bangladesh, CRC, CRC/C/66 (1997) 22 at paras. 149 and 169.

### *Paragraph 149*

The situation of the administration of juvenile justice, and its incompatibility with articles 37, 39 and 40 of the Convention and other relevant international standards, is a matter of concern. Specifically, the very young age of criminal responsibility (7 years), the lack of adequate protection for children aged 16-18, grounds for arrest and detention of children that can include prostitution, "vagrancy" or "uncontrollable behaviour", the possibility of imposing heavy sentences on children and the solitary confinement and ill-treatment of children by the police are of concern.

### *Paragraph 169*

With regard to the administration of juvenile justice, legal reform should be pursued in connection with the very young age of criminal responsibility (7 years), the lack of adequate protection for children aged 16-18, grounds for arrest and detention of children that can include prostitution, "vagrancy" or "uncontrollable behaviour", the possibility of imposing heavy sentences on children, and the solitary confinement and ill-treatment of children by the police. In this reform, the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty should be accounted for. The technical assistance programmes of the High Commissioner/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the Secretariat should be sought.

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- Paraguay, CRC, CRC/C/66 (1997) 29 at paras. 199 and 219.

### *Paragraph 199*

The ill-treatment of children in detention centres is of particular concern. The significant percentage of juveniles who are deprived of their liberty for extended periods without being charged or brought to trial is of grave concern. It is also of concern that in at least one major detention centre, persons who have been convicted and those awaiting trial are not housed separately.

### *Paragraph 219*

A comprehensive reform of the juvenile justice system should be undertaken in the spirit of the Convention and other UN standards in this field. Particular attention should be paid to protecting the rights of children deprived of their liberty, improving alternative measures to imprisonment and guaranteeing due process of law. Training on the relevant international standards should be provided for all professionals involved with the juvenile justice system. For this purpose, technical assistance should be sought from the High Commissioner/Centre for Human Rights and the Crime Prevention and Criminal Justice Division of the United Nations.

- Algeria, CRC, CRC/C/66 (1997) 35 at paras. 246 and 260.

### *Paragraph 246*

It is noted with concern that, under article 249 of the Code of Criminal Procedure, children between 16 and 18 suspected of terrorist or subversive activities are tried in criminal court as adults. While article 50 of the Criminal Code prohibits the sentencing of a minor to capital punishment or life imprisonment, it remains unclear whether the legal regime applicable to those minors with respect to trial proceedings and the execution of the sentence is that applicable to minors or to adults.

### *Paragraph 260*

In the implementation of special rules and regulations relating to terrorist and subversive activities, special attention should be given to the implementation of articles 37 (a), (c) and (d), and 40, paragraph 3, of the Convention.

- Azerbaijan, CRC, CRC/C/66 (1997) 41 at para. 290.

The lack of respect for the rights of the child in "corrective labour institutions", the lack of an appropriate monitoring system for all types of detention centres and the inadequacy of alternative measures to imprisonment are matters of particular concern.

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- Lao People's Democratic Republic, CRC, CRC/C/69 (1997) 8 at para. 56.

The situation in relation to the administration of juvenile justice, in particular its compatibility with articles 37, 39 and 40 of the Convention and other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, is a matter of concern. The lack of a legal framework for the administration of juvenile justice, the grounds for arrest and detention of children that can include prostitution, the absence of specialized judges, and the lack of social workers and qualified legal defenders are matters of concern.

- Australia, CRC, CRC/C/69 (1997) 16 at para. 104.

The unjustified, disproportionately high percentage of Aboriginal children in the juvenile justice system and the tendency to normally refuse applications for bail for them, are matters of concern.

- Uganda, CRC, CRC/C/69 (1997) 21 at para. 137.

The violations of the rights of children in detention centres, the remanding of children in adult prisons or police cells, long periods in custody, delays before trial, and the inadequacy of existing alternative measures to imprisonment are matters of particular concern.

- Trinidad and Tobago, CRC, CRC/C/69 (1997) 33 at para. 238.

The minimum age of criminal responsibility should be raised. Alternatives to detention, as well as special facilities for girl child offenders should be provided. Corporal punishment in detention as a means of discipline, and flogging as a means of punishment, should be abolished in the legislation and in practice.

- Togo, CRC, CRC/C/69 (1997) 39 at paras. 269 and 293.

### *Paragraph 269*

The violations of the rights of the child in detention centres, especially when not separated from adult detainees, the length and conditions of pre-trial detention, the existence of only one judge for minors and one centre specifically for boys in conflict with the law, the lack of access to legal assistance and the inadequacy of existing alternative measures to imprisonment are matters of particular concern.

### *Paragraph 293*

A comprehensive reform of the juvenile justice system should be undertaken. Particular attention



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should be paid to protecting the rights of children deprived of their liberty, especially guaranteeing their separation from adult detainees, reducing the length of pre-trial detention, increasing the number of judges for minors and the number of specific rehabilitation centres for boys as well as for girls in conflict with the law, giving access to legal assistance and promoting alternative measures to imprisonment. Training programmes on the relevant UN standards should be organized for all professionals involved with the juvenile justice system. The State party should consider seeking and reinforcing current technical assistance for this purpose from, among others, the Office of the United Nations High Commissioner for Human Rights and the Crime Prevention and Criminal Justice Division of the United Nations.

- Democratic People's Republic of Korea, CRC, CRC/C/79 (1998) 13 at para. 98.

All necessary steps should be taken to bring the juvenile justice system into full conformity with the provisions and principles of the United Nations standards in this field such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to the rights of children to prompt access to legal assistance, judicial review and periodic review of placement. Furthermore, the special protection provided to children under penal law should be extended to all persons under 18 years of age. Training programmes on the relevant international standards should be organized for all professionals involved with the juvenile justice system.

- Fiji, CRC, CRC/C/79 (1998) 18 at para. 125.

The lack of legal counselling for children in care centres, that detention is not being used as a measure of last resort, and the poor state of detention centres are of particular concern. The low minimum age for criminal responsibility, set at 10 years and the fact that children aged between 17 and 18 years are not considered to be under the juvenile justice system are also matters of concern.

- Japan, CRC, CRC/C/79 (1998) 25 at para. 193.

A review of the system of juvenile justice should be undertaken in light of the principles and provisions of the Convention and of other United Nations standards in this field such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to the establishment of alternatives to detention, the monitoring and complaints procedures and the conditions in substitute prisons.

- Luxembourg, CRC, CRC/C/79 (1998) 38 at paras. 263 and 280.

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### *Paragraph 263*

Of concern is that children aged between 16 and 18 may be referred to ordinary courts and judged as adults. Of further concern is that juveniles may be detained with adults in ordinary prisons, where the conditions are extremely unfavourable, including strict limits on time for exercise and leisure, the virtual absence of educational opportunities and long periods of isolation in their cells. In this regard, the slow pace taken to implement all decisions taken by the interministerial working group to improve drastically the conditions of detention of children is of concern.

### *Paragraph 280*

All measures should be taken to fully integrate the provisions of the Convention and other relevant UN standards into the State party's legislation, policies and practices. Special attention should be given to alternatives to detention, to preventing suicide in detention, to providing appropriate infrastructures to detained children in order to fully ensure their separation from adults and to guarantee that they have regular contacts with their family. The right of detained children to education, including vocational training, should be fully taken into account. All appropriate measures should be taken to implement all appropriate recommendations adopted by the interministerial working group to drastically improve the conditions of detention for children.

- Kuwait, CRC, CRC/C/80 (1998) 28 at para. 150.

Additional steps should be taken to reform the system of juvenile justice in the spirit of the United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, to the protection of all the rights of children deprived of their liberty and, when appropriate, to encouraging alternatives to the processing of cases through the regular penal system. Training programmes on relevant international standards should be organized for all those professionals involved with the system of juvenile justice. Technical assistance should be considered from, *inter alia*, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance in Juvenile Justice.

- Belize, CRC, CRC/C/84 (1999) 12 at para. 89.

The absence of specific legal provisions ensuring that children remain in contact with their families while in the juvenile justice system is of concern. The situation of overcrowding in detention facilities;

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the holding of minors in adult detention facilities; and the lack of reliable statistical data on the number of children in the juvenile justice system are also of concern. The low minimum legal age of criminal responsibility (7 years) is also of concern. Additional steps should be taken to reform the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, protecting the rights of children deprived of their liberty, and ensuring that children remain in contact with their families while in the juvenile justice system. Training programmes on relevant international standards should be organized for all those professionals involved with the system of juvenile justice. Technical assistance should be considered from, *inter alia*, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice in Juvenile Justice. The legal minimum age of criminal responsibility should be increased and legislation should be brought into conformity with the Convention.

- Guinea, CRC, CRC/C/84 (1999) 21 at para. 126.

The insufficient number of facilities for the detention of juveniles and the fact that juveniles are detained with adults is of concern. Furthermore, the insufficiency of facilities and programmes for the physical and psychological recovery and social reintegration of juveniles is also of concern. All measures should be taken to fully integrate the relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, in its legislation, policies and programmes. Furthermore, seeking international assistance from, *inter alia*, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF through the Coordination Panel on Juvenile Justice should be considered.

- Yemen, CRC, CRC/C/84 (1999) 33 at para. 184.

The lack of detention centres for female juvenile offenders; the use of detention other than as a measure of last resort; the poor living conditions in detention centres; the use of physical punishment, including flogging, and torture in detention centres; the lack of rehabilitation measures and educational facilities for juvenile offenders; and the placement of "potential delinquents" in detention centres instead of care institutions for their rehabilitation are matters of concern. Furthermore, the age of criminal responsibility, set at 7 years, is too low. All measures should be taken to review legislation in order to reflect the relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived

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of their Liberty. Training programmes on relevant international standards should be organized for all professionals working in the system of juvenile justice. Technical assistance should be considered from, *inter alia*, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF through the Coordination Panel on Juvenile Justice.

- Honduras, CRC, CRC/C/87 (1999) 26 at para. 130.

The Committee remains concerned that deprivation of liberty is not being used systematically as a measure of last resort; that due process is not fully respected; and that there is lack of adequate training for the police on the application of the Convention and other relevant international standards. The State party should undertake further measures to ensure the full compatibility of the juvenile justice system with the provisions of the Convention and other relevant UN standards in the field. Particular attention should be paid to ensuring the improvement of the conditions of children living in special institutions, that violence is not used by law enforcement officials, that deprivation of liberty is only used as a measure of last resort, that due process needs to be respected in all cases, and that alternative measures to deprivation of liberty need to be strengthened. Training programmes on the relevant international standards should be conducted for all professionals involved with the juvenile justice system. In this regard, it is suggested that the State party consider seeking technical assistance from, *inter alia*, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Juvenile Justice.

- Chad, CRC, CRC/C/87 (1999) 45 at para. 201.

The conditions faced by children deprived of liberty, particularly children detained with adults without adequate protection from inhumane treatment, and the insufficiency of programmes for the physical and psychological recovery and social reintegration of juveniles remain matters of concern. Plans to build facilities to separate juveniles from adults and to continue training judges should be pursued. All other measures needed to implement the relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty should be taken.

- Nicaragua, CRC, CRC/C/87 (1999) 54 at para. 247.

The State party should effectively implement its juvenile justice system. Particular attention should be given to ensuring the improvement of the conditions of children living in prisons and detention centres, to developing correctional centres for the rehabilitation of children in conflict with the law,

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to ensuring that violence is not used by law enforcement officials, to ensuring that deprivation of liberty is used only as a measure of last resort, to guaranteeing prompt access to justice for children in pre-trial detention, and to developing alternative measures to deprivation of liberty. Penal policies concerning “property offences” committed by children should be reviewed and alternative measures should be established to address the needs of children involved in this type of offence.

- Venezuela, CRC, CRC/C/90 (1999) 10 at paras. 50 and 61.

### *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 is 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 61*

Additional measures should be taken to reform the juvenile justice system in accordance with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The deprivation of liberty should only be used as a last resort and for the shortest period of time and the continued contact with their families while in the juvenile justice system should be ensured. Training programmes on relevant international standards for all professionals involved with the juvenile justice system should be introduced and technical assistance in the area of juvenile justice and police training should be sought from, *inter alia*, the Office of the High Commissioner for Human Rights, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice, through the Coordination Panel on Technical Advice and Assistance in Juvenile Justice.

### *See also:*

- Mexico, CRC, CRC/C/90 (1999) 34 at para. 182.
- Dominican Republic, CRC, CRC/C/103 (2001) 91 at paras. 510, 530 and 531.

- Russian Federation, CRC, CRC/C/90 (1999) 18 at para. 130.

Reports of police brutality and torture committed against detained juveniles during the investigation of their alleged acts and the extended periods of pre-trial detention of juvenile detainees at the

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discretion of the Procurator are matters of concern. Furthermore, the treatment of juvenile offenders living in educational colonies, places of pre-trial detention or in special educational establishments, and the poor conditions of detention and in prisons in general, are of serious concern.

- Mexico, CRC, CRC/C/90 (1999) 34 at para. 192.

With regard to the administration of the juvenile justice system, the following concerns remain: the deprivation of liberty is not used only as a last resort; children are often detained together with adults in police stations; cases are processed at a slow pace; detention centres have very poor conditions; juveniles have insufficient access to legal assistance; insufficient rehabilitation measures exist for juvenile offenders; the insufficient supervision and monitoring in detention centres; and the limited amount of trained staff in detention centres. In the light of articles 37, 40 and 39 and other relevant standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Committee recommends that the State party:

effectively implement a juvenile justice system in accordance with the Convention and other related international standards; ensure the improvement of the conditions of children living in prisons and detention centres; develop centres for the rehabilitation of children in conflict with the law; prohibit the use of violence by law enforcement officials; ensure that the deprivation of liberty is used only as a measure of last resort; guarantee prompt access to justice for children in pre-trial detention; develop alternative measures to deprivation of liberty; and strengthen its training programmes on the relevant international standards, for judges, professionals and staff working in the field of juvenile justice. Furthermore, the Committee suggests that the State party consider seeking technical assistance from, *inter alia*, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice through the Coordination Panel on Juvenile Justice.

- India, CRC, CRC/C/94 (2000) 10 at paras. 71, 72, 111 and 113.

### *Paragraph 71*

The registration of each child taken to a police station should be mandatory, including time, date and reason for detention. Detention should be subject to frequent mandatory review by a magistrate. The State party is encouraged to amend sections 53 and 54 of the Code of Criminal Procedure so that medical examination, including age verification, is mandatory at the time of detention and at regular intervals.

### *Paragraph 72*

The State party should implement the recommendations made by the National Police Commission in

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1980 and the Parliamentary Committee in 1996, which, *inter alia*, call for a mandatory judicial inquiry in cases of alleged rape, death or injury of persons in police custody; the establishment of investigative bodies; and payment of compensation to people who have been victims of custodial abuse. Amendment to the Juvenile Justice Act is recommended to provide for complaints and prosecution mechanisms for cases of custodial abuse of children. Section 43 of the Police Act should be amended so that police cannot claim immunity for actions while executing a warrant in cases of illegal detention or custodial abuse.

### *Paragraph 111*

Concern is expressed over the administration of juvenile justice in India and its incompatibility with articles 37, 40 and 39 of the Convention and other relevant international standards. Concern is expressed about the very young age of criminal responsibility - 7 years - and the possibility of trying boys between 16 and 18 years of age as adults. Noting that the death penalty is *de facto* not applied to persons under 18, the Committee is very concerned that *de jure*, this possibility exists. The overcrowded and unsanitary conditions of detention of children are a concern, including detention with adults; lack of application and enforcement officers of existing juvenile justice legislation; lack of training for professionals; and the lack of measures and enforcement thereof to prosecute officials who violate these provisions.

### *Paragraph 113*

It is recommended that the State party abolish the imposition of the death penalty on persons under 18. The State party should consider raising the age of criminal responsibility and ensure that persons under 18 years are not tried as adults. In accordance with the principle of non-discrimination contained in article 2 of the Convention, the Committee recommends article 2 (h) of the 1986 Juvenile Justice Act be amended to ensure that boys under 18 years are covered by the definition of juvenile, as girls already are. The 1986 Juvenile Justice Act should be fully enforced. The judiciary and lawyers should be trained and made aware of it. Measures should be taken to reduce overcrowding, to release those who cannot be given a speedy trial and to improve prison facilities as quickly as possible. It is recommended that the State party ensure regular, frequent and independent monitoring of institutions for juvenile offenders.

- Sierra Leone, CRC, CRC/C/94 (2000) 24 at paras. 205 and 206.

### *Paragraph 205*

Concern is expressed about the very poor conditions in prisons and detention facilities in the State party. That domestic legislation only requires that minors in detention be separated from adults as far as circumstances permit is a concern.

### *Paragraph 206*

The State party is urged to apply domestic requirements that imprisonment be a measure of last

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resort, particularly given the prevailing conditions in national detention facilities. The State party should strengthen and make use of alternatives to imprisonment.

- Armenia, CRC, CRC/C/94 (2000) 53 at paras. 350 and 351.

### *Paragraph 350*

Serious concern is expressed at the absence of a system of juvenile justice in Armenia, in particular the absence of special laws, procedures and juvenile courts. Concern is expressed at the length of pre-trial detention and the limited access to visitors in this period; the use of detention not as a measure of last resort; the often disproportionate length of sentences in relation to the seriousness of offences; conditions of detention; and the fact that juveniles are often detained with adults. The absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders is a concern.

### *Paragraph 351*

With regard to the juvenile justice system, particular attention should be paid to ensure that the deprivation of liberty is only used as a measure of last resort, that children have access to legal aid and that children are not detained with adults. Facilities and programmes for the physical and psychological recovery and social reintegration of juveniles should be developed.

- Peru, CRC, CRC/C/94 (2000) 64 at para. 381.

With regard to the administration of the juvenile justice system, the creation of Family Courts and of specialized prosecutors to deal with children's cases are welcomed. Concern is expressed that the provisions of the Children and Adolescents Code regarding the administration of juvenile justice are not fully implemented, *inter alia*, that the various services in this area are not adequately staffed and trained; that conditions in detention centres are poor and not adequately monitored; that alternative measures to detention are not sufficiently developed. In light of articles 37, 40 and 39 and other relevant United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, it is recommended that the State party:

- (a) Ensure that deprivation of liberty is used only as a measure of last resort;
- (b) Improve the living conditions of children in prisons and other detention centres;



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- (c) Strengthen and increase its efforts to develop alternative measures to the deprivation of liberty;
  - (d) Develop effective probation services for juveniles, in particular those who are released from detention centres, in order to support their reintegration in society;
  - (e) Develop alternative measures to deprivation of liberty; and
  - (f) Strengthen its training programmes on the relevant international standards for judges, professionals and staff working in the field of juvenile justice.
- Grenada, CRC, CRC/C/94 (2000) 72 at paras. 411 and 412.

### *Paragraph 411*

While the Committee notes the State party's intention to establish a juvenile justice system, it is concerned about: the lack of efficient and effective administration of juvenile justice and in particular its lack of compatibility with the Convention, as well as other relevant United Nations standards and the holding of minors in adult detention facilities, the lack of adequate facilities for children in conflict with the law and the limited numbers of trained personnel to work with children in this regard.

### *Paragraph 412*

It is recommended that the State party:

- (a) Take additional steps to implement a juvenile justice system in conformity with the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- (b) Use deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty, including the right to privacy; ensure that children remain in contact with their families while in the juvenile justice system; and prohibit and eradicate the use of corporal punishment (whipping) in the juvenile justice system;
- (c) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;
- (d) Consider seeking technical assistance from, inter alia, the OHCHR, the Centre for

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International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice in Juvenile Justice.

### *See also:*

- South Africa, CRC, CRC/C/94 (2000) 81 at para. 455.
- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 507 and 508.
  
- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 74 and 75.

### *Paragraph 74*

Concern is expressed that persons under 18 may be prosecuted for crimes in the same manner as adults, without special procedures; are potentially liable for the same penalties as adults; may be subject to deprivation of liberty without due process; and, apart from facilities in some large cities, may be held in detention with adults. The right of juvenile delinquents to protective and rehabilitative measures is not guaranteed.

### *Paragraph 75*

With regard to juvenile justice, particular attention should be paid to ensure that deprivation of liberty is only used as a measure of last resort, children have access to legal aid, and that children are not detained with adults. Facilities and programmes for the physical and psychological recovery and social reintegration of juveniles should be developed.

- Georgia, CRC, CRC/C/97 (2000) 18 at paras. 144 and 145.

### *Paragraph 144*

Concern is expressed at the increasing number of children in conflict with the law and the limited measures taken by the State party to address their concerns. In particular, the following is noted:

- (a) The absence of adequate legislation on juvenile justice, as well as the inconsistency of the juvenile justice system with the Convention and other relevant United Nations standards;
- (b) The poor conditions of juvenile detention facilities, including the lack of adequate food, clothing, heating, educational opportunities and leisure activities for child detainees;
- (c) The inadequate facilities for children in conflict with the law; the insufficient numbers of trained personnel to work with children in this regard; and the lack of a complaint mechanism for children whose rights have been violated.

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### *Paragraph 145*

The State party should:

- (a) Take all appropriate measures to implement a juvenile justice system that is in conformity with the Convention, in particular articles 37, 40 and 39, and other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
  - (b) Use deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty, including their right to privacy; and ensure that children deprived of their liberty remain in contact with their families;
  - (c) Take all appropriate measures to improve the situation of children in juvenile detention facilities, including their access to adequate food, clothing, heating, educational opportunities and leisure activities;
  - (d) Introduce training programmes on relevant international standards for all professionals involved with the administration of juvenile justice;
  - (e) Consider seeking technical assistance from, among others, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance in Juvenile Justice.
- Norway, CRC, CRC/C/97 (2000) 43 at paras. 239 and 240.

### *Paragraph 239*

Concern is expressed that the best interests of the child, and in particular, child rights with regard to separation from parents, are not fully respected in the context of maintaining contact with parents serving prison sentences. Despite the State party's positive efforts, concern is expressed that when decisions to deport foreigners convicted of a criminal offence are taken, professional opinions on the impact of such decisions upon the children of the deported persons are not systematically referred to and taken into consideration.

### *Paragraph 240*

Application of family contact rules for imprisoned persons should be flexible so as to ensure that a child maintains personal relations and direct contact with an imprisoned parent, where this is in the best interests of the child. The process through which deportation decisions are made should be reviewed to ensure that, where deportation will mean the separation of a child from his or her parent,

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the best interests of the child are taken into consideration.

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 321, 328 and 329.

### *Paragraph 321*

**Asylum determination policy should be reviewed and it should be ensured that it complies with international standards. The payment of fines for non-possession of documentation should be made only to a court or officials not involved in the citation; issuance of receipts should be mandatory; and those detained should not be required to pay the costs of their detention.**

### *Paragraph 328*

It is of concern that juvenile offenders are not dealt with separately under the justice system and that there are no special procedures or specially trained personnel. Despite laws to the contrary, the militia often do not notify parents of arrests, and often neither parents nor lawyers are present during questioning of juveniles. In relation to pre-trial detention, concern is expressed at length of detention; the limited access to visitors; and that juveniles are often detained with adults during this period. Concern is expressed about the limited access to adequate legal aid for poor individuals; the often disproportionate length of sentences meted out in relation to the seriousness of offences; and that girls are detained with adult females. Concern is also expressed about the poor conditions of the facilities; inadequate nutrition, clothing and psychological and medical care; and the lack of access to adequate recreational, educational and vocational facilities. The lack of facilities for the physical and psychological recovery and social reintegration of juvenile offenders is also a concern. Concern is expressed that even when a case against a juvenile has been dismissed by the prosecutor, the charge remains on the register because people are often not aware of how to have it struck off. This may result in the stigmatization of innocent people.

### *Paragraph 329*

All measures should be taken to integrate fully into its legislation and practice the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System. Facilities and programmes for the physical and psychological recovery and social reintegration of juveniles should be developed. Assistance should be sought from, among others, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice, and UNICEF through the Coordination Panel on Juvenile Justice.

- Cambodia, CRC, CRC/C/97 (2000) 64 at paras. 395 and 396.

### *Paragraph 395*

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With regard to the situation of children in conflict with the law, concern is expressed at the lack of special legislation, policies and programmes in this area; at reports of children detained in prisons with adults; the situation of children detained for extended periods without being charged and without access to a lawyer or to a court; and the reports of detained children allegedly being subjected to beatings and other ill-treatment.

### *Paragraph 396*

It is recommended that the State party develop a comprehensive policy and programmes regarding the situation of children in conflict with the law, with particular attention to the situation of children deprived of their liberty and to the prevention of juvenile delinquency. The State party should consider seeking technical assistance from OHCHR, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice through the Coordination Panel on Juvenile Justice, among others.

- Djibouti, CRC, CRC/C/97 (2000) 96 at paras. 568 and 569.

### *Paragraph 568*

While the recent release of a number of children who had been detained in the Gabode prison is welcomed, concern is expressed about the lack of support and assistance which may be faced by those children. Concerns remain about the treatment of children alleged to be in conflict with the law. Concern is expressed about conditions in places of detention for children, especially with regard to overcrowding and the quality of the health services and educational programmes offered, and in particular about the availability of services to facilitate the detained child's reintegration in society, in accordance with the provisions of article 40(1) of the Convention.

### *Paragraph 569*

It is recommended that every effort be made to gather information on the number and legal situation of children in detention within the State party. The State party is urged to enforce domestic legislation requiring that imprisonment be a measure of last resort. Children should be kept separate from adult detainees. It is further recommended that the State party:

- (a) Take additional steps to ensure that the juvenile justice system is in full conformity *de facto* as well as *de jure*, with the provisions of the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- (b) Consider seeking technical assistance in this regard from, among others, the member organizations of the Coordination Panel on Technical Advice in Juvenile Justice, including the Office of the High Commissioner for Human Rights, the Centre for International Crime

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Prevention, the International Network on Juvenile Justice and UNICEF.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 158 and 159.

### *Paragraph 158*

The weakness of juvenile justice facilities in the State party is of concern. In particular, it is of concern that children who have been charged with a criminal offence are obliged to wait long periods of time before a trial is held and that the duration of pre-trial detention of children frequently exceeds the maximum prison sentence to which a child can be sentenced if found guilty. Investigations into criminal accusations made against children are extremely slow. In addition, children are usually detained or imprisoned in the same facilities as adults and conditions of detention are very poor. That children under the established minimum age of criminal responsibility are frequently detained is a concern.

### *Paragraph 159*

The State party is urged to make every effort to ensure that investigations and trials of children accused of committing criminal acts are conducted rapidly, that periods of pre-trial detention are kept to a minimum, that children are detained or imprisoned separately from adults and that conditions of detention are improved. The State party is urged to ensure that no children under the age of 13 are detained or imprisoned, in accordance with domestic legislation.

- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), CRC, CRC/C/100 (2000) 40 at paras. 263 and 264.

### *Paragraph 263*

It is noted that legislation relating to juvenile justice has been enacted in all of the Overseas Territories. While the legal abolition of judicial corporal punishment in most of the Overseas Territories is appreciated, concern is expressed that the bill to abolish it in the British Virgin Islands has not yet been enacted. Concern is also expressed about:

- (a) The length of time before the hearing of juvenile cases; the lack of confidentiality accorded in cases involving juveniles; the holding of minors in adult detention facilities; the inadequacy of facilities for children in conflict with the law, including girls; the insufficient numbers of trained personnel to work with children in this regard; and the lack of legal aid programmes;
- (b) The inadequate access to education, health, counselling and other rehabilitative services; and

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the lack of a complaints mechanism for children whose rights have been violated.

### *Paragraph 264*

With regard to the Overseas Territories, it is recommended that the State party:

- (a) Take additional steps to reform the juvenile justice system in the spirit of the Convention, in particular articles 37, 40 and 39, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;
- b) Consider deprivation of liberty only as a measure of last resort, for the shortest possible time and only for serious offences; protect the rights of children deprived of their liberty, including the right to privacy; ensure that children remain in contact with their families while in the juvenile justice system; ensure that children are provided adequate access to education, health, counselling and other rehabilitative services; and introduce complaints mechanisms for children whose rights have been violated;
- (c) Introduce training programmes on relevant international standards for all those professionals involved with the juvenile justice system.

### *See also:*

- United Kingdom of Great Britain and Northern Ireland (Isle of Man), CRC, CRC/C/100 (2000) 31 at para. 204.
- Colombia, CRC, CRC/C/100 (2000) 64 at paras. 394 and 395.

### *Paragraph 394*

Note is taken of the fact that prisons for children have been closed and that re-education centres for children in conflict with the law have been established. Concerns remain about the situation of children placed in these centres, in particular regarding their long-term placement, which constitutes a form of deprivation of liberty; that deprivation of liberty and isolation of juveniles are systematically used in police stations; that juvenile courts use measures of confinement not as a measure of last resort; at the lack of alternative measures to the use of deprivation of liberty (e.g. assisted liberty); and at the insufficient re-education and rehabilitation measures for juvenile offenders.

### *Paragraph 395*

In the light of articles 37, 40 and 39 and other relevant United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing

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Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, it is recommended that the State party:

- (a) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest period and only for serious offences;
  - (b) Improve the living conditions of children in re-education centres;
  - (c) Strengthen and increase its efforts to develop alternative measures to the deprivation of liberty;
  - (d) Develop effective probation services for juveniles, in particular for those who are released from re-education centres in order to support their reintegration in society;
  - (e) Strengthen its training programmes on the relevant international standards for judges, professionals and staff working in the field of juvenile justice.
- Central African Republic, CRC, CRC/C/100 (2000) 77 at paras. 473 and 474.

### *Paragraph 473*

The limited progress achieved in establishing a functioning system of juvenile justice throughout the country is of concern. In particular, concern is expressed about the small number of juvenile courts, none of which is outside Bangui, the detention and imprisonment of juveniles with adults and the absence of assistance towards the rehabilitation and reintegration of juveniles following justice proceedings.

### *Paragraph 474*

The State party should pursue its efforts to train judges in juvenile justice and such training should be extended to other law enforcement officials, including police and prison personnel. It is recommended that every effort be made to separate children from adults in detention and prison facilities and to establish a programme of rehabilitation and reintegration of juveniles following justice proceedings. Juvenile courts should be established at all prefectures and the State party should seek international assistance in the area of juvenile justice from, among others, OHCHR, the Centre for International Crime Prevention, UNICEF and the International Network on Juvenile Justice, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Marshall Islands, CRC, CRC/C/100 (2000) 89 at paras. 539 and 540.



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### *Paragraph 539*

While acknowledging the existence of a Juvenile Procedure Act and the important fact that professionals working in the juvenile justice system have received training on the provisions of the Convention, concerns remain that the juvenile justice system is not fully in compliance with the Convention. This applies in particular to the failure to separate juvenile and adult prisoners and the use of the concept of status offences which punishes behaviour by a child that would not be punishable if committed by an adult.

### *Paragraph 540*

It is recommended that the State party review its law and practices regarding the juvenile justice system in order to bring it into full compliance with the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), with a view to abolishing status offences and ensuring child-friendly practices at the police and other levels of the juvenile justice system and the separation of juvenile and adult offenders in prison. The State party is encouraged expeditiously to complete the building of the prison facility that will allow for the separation of juvenile and adult prisoners.

- Slovakia, CRC, CRC/C/100 (2000) 100 at paras. 594 and 595.

### *Paragraph 594*

Amendments to the Penal Code and the Penal Rules in the area of juvenile justice are noted. However, concern is expressed at the insufficient information available on prevailing conditions in detention facilities for juveniles and with respect to independent complaints mechanisms.

### *Paragraph 595*

In light of article 37 of the Convention, conditions of detention should conform to international standards. The State party should consider the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment concerning the detention of juveniles. Moreover, there should be effective independent mechanisms available to receive and address concerns raised by detainees.

- Comoros, CRC, CRC/C/100 (2000) 110 at para. 649.

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The limited measures taken for children in conflict with the law are of concern. In particular, concern is expressed about the following: the detention of children in prisons with adults since there are no separate facilities for them, the deteriorating living conditions in detention centres, and the lack of rehabilitation programmes.

- Latvia, CRC, CRC/C/103 (2001) 9 at paras. 72 and 73.

### *Paragraph 72*

The juvenile justice system is not fully in compliance with the Convention and the justice system as a whole is not efficient. In particular, concern is expressed about reports of juvenile offenders spending long periods in pre-trial detention because the justice system is overloaded. That juvenile offenders are being kept in adult prison facilities and that there are no programmes for their rehabilitation and reintegration into society is also of concern.

### *Paragraph 73*

The State party should review its law and practices regarding the juvenile justice system in order to bring it into full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, with a view to ensuring child-friendly practices by the police and other levels of the juvenile justice system and the separation of juvenile and adult offenders in prison. In particular, the State party is reminded that juvenile offenders should be dealt with without delay and that pre-trial detention should not be longer than the period prescribed by law and should be used only as a measure of last resort. Alternative measures to detention should be used whenever possible. The State party should incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment, and take appropriate rehabilitative measures to promote the social reintegration of the children involved in the juvenile justice system.

### *See also:*

- Lithuania, CRC, CRC/C/103 (2001) 47 at paras. 306-308.
  
- Liechtenstein, CRC, CRC/C/103 (2001) 19 at paras. 110 and 111.

### *Paragraph 110*

With regard to the administration of juvenile justice, concern is expressed about the lack of disaggregated statistics on the types of offences with which minors are generally charged, as well as on the average length of sentences and pre-trial detention. Concern is also expressed regarding the insufficient information concerning the practice and procedure of monitoring the situation of children

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who, owing to the lack of facilities in the State party, are in detention in Austria.

### *Paragraph 111*

The State party should pay close attention to the practice of juvenile justice through, *inter alia*, the systematic collection of disaggregated data and monitoring, particularly with respect to the children in detention in Austria.

- Ethiopia, CRC, CRC/C/103 (2001) 24 at paras. 192 and 193.

### *Paragraph 192*

The weaknesses in the administrative and judicial infrastructure are of concern. There is currently only one juvenile justice court in the country and only one remand home for child offenders, both in the capital city. It is noted that adult criminal courts are used to try juvenile cases. Concern is expressed that the full range of protections provided by international juvenile justice standards may not be fully available in such instances. Further concern is expressed about the fact that children are not separated from adults while in detention and that children aged 15 to 18 may not benefit from all the protections afforded by relevant juvenile justice standards and may, under the current legislation, be sentenced to the death penalty or to life imprisonment.

### *Paragraph 193*

Additional juvenile justice courts should be established in different regions of the country. To the extent that adult criminal courts are used to try juveniles, judges and other relevant officials should be provided with juvenile justice training. The capacity of correctional facilities to provide for children should be increased in order to meet minimum standards defined in international instruments. Measures should be implemented to ensure that children are detained and imprisoned only as a measure of last resort, for the minimum time possible and in separate facilities from those used for adults. The Penal Code should be amended to ensure that all children, including those aged 15 to 18, benefit from the protections afforded by international juvenile justice standards and to ensure that children under 18 years of age cannot be sentenced to the death penalty or to life imprisonment.

- Egypt, CRC, CRC/C/103 (2001) 36 at paras. 248 and 249.

### *Paragraph 248*

Concern is expressed that status offences, such as begging and truancy, under article 96 of the Children's Code are in practice criminalized. Furthermore, concern is expressed at the absence of effective, child-friendly and independent complaints mechanisms for juvenile detainees, and that the right to social rehabilitative measures is not adequately guaranteed.

### *Paragraph 249*

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The State party should repeal status offences such as begging and truancy; ensure separation of children from adults in pre-trial detention; establish effective independent complaints mechanisms; and develop facilities and programmes for the physical and psychological recovery and social reintegration of juveniles. Assistance should be sought from, among others, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 415 and 416.

### *Paragraph 415*

It is of concern that the age of majority is not defined, and in the absence of a published criminal code and code of criminal procedure, persons under 18 may be prosecuted for crimes in the same manner as adults (i.e. without special procedures) and be subject to the same penalties as adults. Concern is also expressed about the lack of an independent and effective child-friendly monitoring and complaints mechanism. The lack of adequate access to legal counsel may put a child at risk of arbitrary arrest and detention under the 1977 Detention and Imprisonment Regulations and the 1983 Principles of Arrest, Temporary Confinement and Preventative Detention Regulations. It is also noted with concern that females under 18 are detained with adult females under the 1975 Statutes of the Welfare Institutions for Young Women.

### *Paragraph 416*

The State party should expedite the promulgation of a criminal code and a code of criminal procedure. Particular attention should be paid to ensure that: deprivation of liberty is only used as a measure of last resort; children have access to legal aid and independent and effective complaints mechanisms; and persons under 18 are not detained with adults.

- Dominican Republic, CRC, CRC/C/103 (2001) 91 at para. 509.

The clear legislative prohibition of all forms of torture is noted. However, concern is expressed about the persistent allegations that children are detained in conditions which amount to cruel, inhuman or degrading treatment, and that children are being physically ill-treated by members of the police force.

- Denmark, CRC, CRC/C/108 (2001) 10 at paras. 72 and 73.

### *Paragraph 72*

While efforts in the area of juvenile justice are noted, concern remains that children between the ages

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of 15 and 17 years may be held in adult detention facilities and kept in solitary confinement.

### *Paragraph 73*

In light of articles 3, 37, 40 and 39, all effective measures should be taken to ensure that children are separated from adults in detention facilities and that children are not subjected to solitary confinement, unless it is in their best interests and subject to court review. Additionally, the State party is encouraged to reinforce its rehabilitation and reintegration programmes for children in conflict with the law.

- 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. In light of article 39, the State party is also invited to take all appropriate measures to ensure the physical and psychological recovery and social reintegration of child victims of torture and/or ill treatment.

- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 223 and 224.

### *Paragraph 223*

Serious concern is expressed at the overall application of juvenile justice, the need for a review of domestic legislation with regard to juvenile justice, and that decisions affecting children are taken by judges with insufficient knowledge of children's rights. The ordering of the detention of minors by

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judicial police officers in contravention of the State party's judicial procedures is also of concern. Of further concern is the limited number of sanctions available to judges and the consequent overemphasis on deprivation of liberty as a sanction, the very poor conditions of detention and reports of the ill-treatment of children. Further, concern is expressed that children aged 16 and 17 are considered to be adults for the purposes of criminal responsibility and that children 16 or above can, and have been, sentenced to the death penalty, which is a violation of article 37(a) of the Convention.

### *Paragraph 224*

The implementation of a comprehensive reform of the administration of juvenile justice is recommended. The State party should adopt appropriate amendments to domestic legislation with regard to juvenile justice, with a view to ensuring full compliance with the Convention and other international standards. Appropriate training should be provided for, among others, judges and lawyers. The State party should proceed with its intention to broaden the range of possible sanctions so that deprivation of a child's liberty is used only as a measure of last resort. Improvements should be made to conditions in places of detention and imprisonment in which children are held. It is urged that the application of juvenile justice provisions be guaranteed to all persons aged under 18, in accordance with international standards. In particular, the State party is urged to ensure respect for article 37(a) of the Convention and that no person under 18 is sentenced to the death penalty or life imprisonment without possibility of release.

- Guatemala, CRC, CRC/C/108 (2001) 47 at paras. 283-285.

### *Paragraph 283*

Concern is expressed at the long periods of pre-trial detention and at poor conditions in detention centres, at the fact that children with no prior criminal record are held together with children with a criminal record and that inadequate education, rehabilitation and reintegration programmes are provided during the detention period.

### *Paragraph 284*

The State party is reminded that juvenile offenders should be dealt with without delay, in order to avoid periods of *incommunicado* detention, and that pre-trial detention should be used only as a measure of last resort, should be as short as possible, and should be no longer than the period prescribed by law. Alternative measures to pre-trial detention should be used whenever possible.

### *Paragraph 285*

With reference to children deprived of their liberty, the State party should incorporate into its legislation and practices the United Nations Rules for the Protection of Juveniles Deprived of Liberty, in particular to guarantee them access to effective complaints procedures covering all aspects of their treatment, and take appropriate rehabilitative measures to promote the social reintegration of the

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children involved in the juvenile justice system. It is recommended that the State party seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

*See also:*

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 145-147.
- Chile, CRC, CRC/C/114 (2002) 90 at paras. 377 and 378.
  
- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at paras. 311, 312, 317, 318, 348 and 350.

*Paragraph 311*

The situation of children born of incarcerated mothers is of deep concern, as both have very limited access to health services.

*Paragraph 312*

Children born in prison and their mothers should have access to health services.

*Paragraph 317*

While welcoming the inclusion of a provision in the new Constitution prohibiting torture or other cruel, inhuman or degrading treatment and punishment, concern is expressed about the extremely poor conditions of detention for children, amounting in many instances to cruel, inhuman and degrading treatment as spelled out in article 37 (a) of the Convention.

*Paragraph 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.

*Paragraph 348*

There is deep concern about the poor conditions of detention, due notably to overcrowding, the overuse of pre-trial detention, the low minimum age of criminal responsibility (10 years), the lengthy periods before juvenile cases can be heard, and the absence of assistance towards the rehabilitation and reintegration of juveniles following judicial proceedings.

*Paragraph 350*

The State party should consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time; protect the rights of children deprived of their liberty and monitor their conditions of detention; and ensure that children remain in regular contact with their families

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while in the juvenile justice system.

- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 418 and 419.

### *Paragraph 418*

Concern is expressed about the holding of minors in adult detention facilities; the poor conditions in detention facilities, the lack of adequate facilities for children in conflict with the law, especially girls, the limited numbers of trained personnel to work with children in this regard, the lack of rehabilitation and reintegration programmes, and the lack of a complaints mechanism for children whose rights have been violated in this regard.

### *Paragraph 419*

The State party should use deprivation of liberty only as a measure of last resort and for the shortest possible period of time; improve the conditions in detention facilities; protect the rights of children deprived of their liberty, including their right to privacy; and ensure that children remain in contact with their families while in the juvenile justice system.

### *See also:*

- Oman, CRC, CRC/C/111 (2001) 36 at para. 202.
- Bhutan, CRC, CRC/C/108 (2001) 85 at para. 485.

The State party should ensure that the deprivation of liberty is used only as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults. The State party should also consider alternative measures to deprivation of liberty, such as probation, community service, or suspended sentences.

### *See also:*

- Mauritania, CRC, CRC/C/111 (2001) 8 at para. 79.
- Bahrain, CRC, CRC/C/114 (2002) 122 at para. 498.