

LEGAL RIGHTS -CRIMINAL - Conditions of Arrest and Detention

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Turkmenistan, CERD, A/57/18 (2002) 49 at para. 265.

265. The Committee...notes with deep concern that, according to information received, only the Russian Orthodox Church and the Sunni branch of Islam enjoy legal status, while other confessions are denied registration by the State party and their members are subject to increased persecution, such as disruption of religious services, including in private homes, prohibition of literature, detentions and ill-treatment of religious leaders, destruction of places of worship and restriction of freedom of movement imposed on religious leaders, which may be in contravention with article 5 of the Convention.

- Canada, CERD, A/57/18 (2002) 56 at para. 333.

333. The Committee reiterates its concern about the high rate of incarceration of, violence against, and deaths in custody of Aboriginals and people of African and Asian descent...

- New Zealand, CERD, A/57/18 (2002) 69 at para. 424.

424. While noting the measures that have been taken by the State party to reduce the incidence and causes of crime within the Maori and Pacific Island communities, the Committee remains concerned at the disproportionately high representation of Maori and Pacific Islanders in correctional facilities. The State party is invited to ensure appropriate funding for the measures envisaged or already initiated to address the problem.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/58/18 (2003) 88 at paras. 536 and 537.

536. The Committee is deeply concerned about provisions of the Anti-Terrorism Crime and Security Act which provide for the indefinite detention without charge or trial, pending deportation, of non-nationals of the United Kingdom who are suspected of terrorism-related activities.

While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with the protection of human rights and its international legal obligations. In this regard, the Committee draws the State party's attention to its statement of 8 March 2002 in which it underlines the obligation of

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States to “ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin”.

537. While the Committee welcomes the initiatives taken for further reforms within the police force, including enhanced representation of ethnic minorities, it recalls its previous concerns about the disproportionately high incidence of deaths in custody of members of ethnic or racial minority groups.

The Committee...encourages the State party to adopt measures conducive to integrating the different ethnic and racial representation within the police force.

- Bahamas, CERD, A/59/18 (2004) 10 at para. 37.

37. Taking note of the substantial efforts already made to manage the Carmichael Road Detention Centre effectively, the Committee is very concerned at reports that conditions in detention there are unsatisfactory, especially as regards access to food and drinking water, hygiene and access to medical care.

The Committee recommends the State party to step up immediately its efforts in this connection...

- Australia, CERD, A/60/18 (2005) 13 at paras. 40 and 41.

40. The Committee, having taken note of the explanations provided by the State party, reiterates its concern about provisions for mandatory sentencing in the Criminal Code of Western Australia. The Committee is concerned at reports of the disparate impact of this law on indigenous groups, and reminds the State party that the Convention prohibits direct as well as indirect discrimination (art. 5).

The Committee recommends that the State party take appropriate measures to achieve abrogation of such legislation, following the example of the Northern Territory. The Committee further stresses the role and responsibility of the Federal Government in this regard under the Convention.

41. The Committee remains concerned about the striking overrepresentation of indigenous peoples in prisons as well as the percentage of indigenous deaths in custody. It has also been reported that indigenous women constitute the fastest-growing prison population (art. 5).

The Committee recommends that the State party increase its efforts to remedy this situation...

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- Georgia, CERD, A/60/18 (2005) 46 at para. 248.

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

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

ICCPR

- Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at paras. 74(15) and 74(17).

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

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

...

(17) The Committee remains concerned about the permissible length of detention as a "temporary preventive measure" (up to 72 hours) in the custody of law enforcement authorities and before detainees are informed of charges brought against them, and about the practice of extending the period of such detention for up to 10 days in certain cases on the initiative of a prosecutor. Such practice is incompatible with article 9 of the Covenant. The Committee is also concerned that no effective mechanism exists for monitoring such detention.

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The State party should take all necessary measures to reduce the length of such detention and to improve judicial oversight so as to ensure compliance with Covenant rights...

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(4), 75(10), 75(12), 75(16) and 75(19).

(4) The Committee welcomes the conclusion of the Belfast Agreement in April 1998 and the changes adopted in Northern Ireland, based upon the agreement, as the State party and other signatories have sought to move away from the extraordinary measures in place in that jurisdiction towards higher promotion of respect for human rights and fundamental freedoms. In particular, the Committee commends the establishment of an independent Police Ombudsman with jurisdiction over complaints in regard to all uses of force on the part of the police and with significant powers of investigation and enforcement, as well as the creation of a Human Rights Commission in Northern Ireland...

...
(10) The Committee is concerned at the State party's maintenance of an old law that convicted prisoners may not exercise their right to vote. The Committee fails to discern the justification for such a practice in modern times, considering that it amounts to an additional punishment and that it does not contribute towards the prisoner's reformation and social rehabilitation, contrary to article 10, paragraph 3, in conjunction with article 25 of the Covenant.

The State party should reconsider its law depriving convicted prisoners of the right to vote.

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

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

...
(16) The Committee is concerned that asylum-seekers have been detained in various facilities on grounds other than those legitimate under the Covenant, including reasons of administrative convenience. In any event, the Committee considers unacceptable any detention of asylum-seekers in prisons. The Committee notes, moreover, that asylum-seekers, after final refusal of their request, may also be held

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in detention for an extended period when deportation might be impossible for legal or other considerations...

The State party should closely examine its system of processing asylum-seekers in order to ensure that each asylum-seeker's rights under the Covenant receive full protection, being limited only to the extent necessary and on the grounds provided for in the Covenant. The State party should end detention of asylum-seekers in prisons.

...

(19) The Committee notes with concern that, under the general Terrorism Act 2000, suspects may be detained for 48 hours without access to a lawyer if the police suspect that such access would lead, for example, to interference with evidence or alerting another suspect. Particularly in circumstances where these powers have not been used in England and Wales for several years, where their compatibility with articles 9 and 14, *inter alia*, is suspect, and where other less intrusive means for achieving the same ends exist, the Committee considers that the State party has failed to justify these powers.

The State party should review these powers in the light of the Committee's views.

- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(33) and 75(35).

(33) The Committee is concerned over the situation of long-term prisoners [in Montserrat], who have had to serve sentences in other overseas territories.

The State party should ensure that, consistent with articles 10, 17, 23 and 24 of the Covenant, long-term prisoners may serve their sentences in its territory; alternatively, it should investigate non-custodial means of punishment.

...

(35) The Committee is concerned at the mixing of accused and convicted prisoners, especially since St. Helena is not one of the overseas territories to which a reservation to article 10, paragraph 2 (a), of the Covenant has been applied.

The State party should ensure that accused and convicted prisoners are appropriately segregated.

- Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at paras. 76(11), 76(12) and 76(14).

(11) The Committee is deeply concerned at reported instances of police brutality towards persons being apprehended and detainees, noting that such persons are frequently aliens. It

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is also concerned that many cantons do not have independent mechanisms for investigation of complaints regarding violence and other forms of misconduct by the police. The possibility of resort to court action cannot serve as a substitute for such mechanisms.

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

(12) The Committee is concerned that many of the guarantees in articles 9 and 14 are not contained in the criminal procedure codes of some cantons and that a unified criminal procedure code has not yet been adopted. Consequently, rights under articles 9 and 14 are not always respected. The Committee is particularly concerned at persistent reports that detainees have been denied the right to contact a lawyer upon arrest or to inform a close relative of their detention.

The State party should take measures to ensure effective implementation of all rights under articles 9 and 14 of the Covenant in all parts of its territory.

...

(14) While the Committee notes the delegation's explanation that *incommunicado* detention is not practised in Switzerland, it is concerned that the criminal procedure code in some cantons would still seem to allow such detention.

The State party should ensure that its laws throughout the country do not allow *incommunicado* detention in violation of articles 9 and 10 of the Covenant.

- Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at paras. 77(6), 77(9) and 77(11)-77(13).

(6) The Committee expresses its satisfaction at the fact that an agreement has been reached between the State party and the International Committee of the Red Cross, by which the ICRC is authorized to visit Azerbaijani prisons and detention facilities.

...

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

The State party should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuses of power by law-

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enforcement officials, and initiate criminal and disciplinary proceedings against those found responsible.

...

(11) The Committee is concerned that the legal right of detainees to access to counsel, medical advice and members of the family is not always respected in practice (articles 7 and 9 of the Covenant).

The State party should ensure scrupulous respect for these rights by its law enforcement agencies, procuracy and judiciary.

(12) The Committee is concerned at the problem of overcrowding in prisons. The Committee notes that insufficient information has been provided by the State party concerning measures undertaken in this regard (article 10 of the Covenant).

The State party should take measures to overcome overcrowding in prisons and should ensure that all persons deprived of their liberty are treated with humanity and respect for their dignity in compliance with the requirements of article 10.

(13) The Committee is concerned at the lack of independent and transparent scrutiny of prison facilities.

The State party should institute a system for independent inspections of detention facilities, which should include elements independent of Government so as to ensure transparency and compliance with article 10.

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at paras. 78(5) and 78(7)-78(9).

(5) The Committee welcomes the creation of the Rapid Reaction Group, the function of which is to visit police stations and other places of detention to carry out investigations promptly in response to complaints.

...

(7) The Committee expresses its concern at the still very large number of deaths of detainees in police stations and prisons, including suicides and deaths from tuberculosis. The Committee also remains concerned about the large number of cases of tuberculosis reported in prisons.

The State party should take urgent measures to protect the right to life and health of all detained persons as provided for in articles 6 and 7 of the Covenant. Specifically, the State party should improve the hygiene, diet and general conditions of detention and provide appropriate medical care to detainees as provided for in article 10 of the Covenant. It should also ensure that every case of death in detention is promptly investigated by an independent agency.

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(8) The Committee remains concerned at the widespread and continuing subjection of prisoners to torture and cruel, inhuman or degrading treatment or punishment by law-enforcement officials and prison officers.

(a) The State party should ensure that all forms of torture and similar ill-treatment are punishable as serious crimes under its legislation, in order to comply with article 7 of the Covenant;

(b) The State party should also set up an effective system to monitor the treatment of all prisoners, in order to ensure full protection of their rights under articles 7 and 10 of the Covenant;

(c) The State party should also ensure that all complaints of ill-treatment are properly investigated by an independent authority, that those responsible are brought to justice and that victims are appropriately compensated;

(d) Immediately upon first being deprived of liberty and during all stages of detention, free access to a lawyer and to doctors should be ensured;

(e) All statements obtained by force from detained persons should be investigated and may never be used as evidence, except as evidence of torture; and

(f) The State party should provide training in human rights, particularly on the prohibition of torture, to police and prison officers.

(9) The Committee is concerned at the length of the period (up to 72 hours) that persons can be kept in police detention before they are informed of the charges against them. It is also concerned at the fact that, until the trial takes place, the accused cannot make a complaint before a judge regarding abuse or ill-treatment during the period of detention.

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

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

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

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The State party should ensure the completion of investigations into such use of force, in conditions of total transparency and through a mechanism independent of the law enforcement authorities. Depending on the results of the investigations, it should expedite the prosecution of law enforcement officers implicated. The State party should also guarantee better human rights training of police officers...

- Hungary, ICCPR, A/57/40 vol. I (2002) 60 at paras. 80(7), 80(8) and 80(13).

(7) The Committee is deeply concerned at the situation of the Roma people who, despite various steps taken by the State party, remain disadvantaged in almost all aspects of life covered by the Covenant...The excessively high number of Roma in prisons, reports of their ill-treatment in police custody and the continuing existence of separate schools are also ongoing sources of concern to the Committee.

The State party should strengthen measures for improving the situation of the Roma people. In addition to further legislative steps, the training of officials, in particular the police, is strongly recommended, as is a vigorous campaign to alter public attitudes *vis-à-vis* the Roma people...

(8) The Committee regrets that, under the new Criminal Procedure Act, short-term arrest of up to 12 hours remains possible. It expresses its concern both at the length of the initial pre-trial detention phase (up to 72 hours) and the difficulties experienced by detainees in contacting their families and obtaining access to a lawyer, especially if the detained person cannot afford to engage private counsel. Further, the Committee is deeply concerned at ongoing pre-trial detention on police premises and the high risk of ill-treatment which it entails. It also greatly regrets that pre-trial detention of up to three years is provided for under the Act.

The State party should reconsider removing these provisions from the new Criminal Procedure Act, especially those permitting detention in police stations for more than 48 hours. The State party should ensure that its law and practice are compatible with article 9 of the Covenant. It should also bring to the attention of judges the particular risk of ill-treatment in police premises, and take appropriate measures to ensure detainees' rights to contact their families and obtain legal assistance (articles 7, 9 and 14 of the Covenant).

...

(13) The Committee is concerned that, notwithstanding the construction of new prison facilities, there is continuing overcrowding in prisons.

The State party should take steps to reduce the grounds for detention provided for by law, to promote alternatives to detention, and to construct additional prison facilities as needed (article 10 of the Covenant).

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- New Zealand, ICCPR, A/57/40 vol. I (2002) 63 at para. 81(13).

(13) The Committee notes with concern that the management of one prison and prison escort services have been contracted to a private company. While welcoming the information that the State party has decided that all prisons will be publicly managed after the expiry of the current contract in July 2005 and that the contractors are expected to respect the United Nations Minimum Standards for the Treatment of Prisoners, it nevertheless remains concerned about whether the practice of privatization, in an area where the State is responsible for protecting the rights of persons whom it has deprived of their liberty, effectively meets the obligations of the State party under the Covenant and its own accountability for any violations. The Committee further notes that there does not appear to be any effective mechanism of day-to-day monitoring to ensure that prisoners are treated with humanity and with respect for the inherent dignity of the human person and further benefit from treatment, the essential aim of which is directed to their reformation and social rehabilitation.

The State party should ensure that all persons deprived of their liberty are not deprived of the various rights guaranteed under article 10 of the Covenant.

- Viet Nam, ICCPR, A/57/40 vol. I (2002) 67 at paras. 82(8), 82(11) and 82(13).

(8) Notwithstanding the information provided by the delegation that only three persons were currently subject to administrative detention, referred to as probation by the delegation, the Committee remains concerned about the continued use of this practice as prescribed under decree CP-31, since it provides for persons to be kept under house arrest for up to two years without the intervention of a judge or a judicial officer. The Committee is equally concerned at the provisions of article 71 of the Code of Criminal Procedure, pursuant to which the Principal Prosecutor may prolong the duration of the preventive detention of an individual without time limits, "if required and for serious offences against national security".

The State party should ensure that no persons are subjected to arbitrary restriction of their liberty and that all persons deprived of their liberty are promptly brought before a judge or other officer authorized to exercise judicial power by law, and that they can only be deprived of their liberty on the basis of a judgement based on law, as required by article 9, paragraphs 3 and 4, of the Covenant.

...

(11) The Committee is concerned that the State party has not yet established an independent, legally constituted body with power to oversee and investigate complaints of human rights violations, including complaints against members of the police and the security services and prison guards. This fact may account for the small number of recorded complaints, in

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contrast to the information about large numbers of violations received from non-governmental sources (arts. 2, 7 and 10).

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

...

(13) The Committee is concerned that the legal right of detainees to access to counsel, medical advice and members of the family is not always respected in practice.

The State party should ensure scrupulous respect for these rights by its law enforcement agencies, the procuracy and the judiciary.

- Republic of Moldova, ICCPR, A/57/40 vol. I (2002) 76 at paras. 84(9) and 84(11).

(9) The Committee is deeply concerned at the conditions prevailing in the State party's detention facilities, in particular its failure to comply with international standards (as acknowledged by the State party), including the guarantees provided in articles 7 and 10 of the Covenant. It is particularly disturbed at the prevalence of disease, notably tuberculosis, which is a direct result of prison conditions. It reminds the State party of its obligation to ensure the health and life of all persons deprived of their liberty. Danger to the health and lives of detainees as a result of the spread of contagious diseases and inadequate care amounts to a violation of article 10 of the Covenant and may also include a violation of articles 9 and 6.

The State party should take immediate steps to ensure that the conditions of detention within its facilities comply with the standards set out in articles 6, 7 and 10 of the Covenant, including the prevention of the spread of disease and the provision of appropriate medical treatment to persons who have contracted diseases, either in prison or prior to their detention.

...

(11) The Committee is concerned at the length of time that elapses in practice before a person suspected of a crime is brought before a judge, and at overly lengthy periods of pre-trial detention. The Committee is concerned by the apparently frequent administrative detention for significant periods of persons qualified as "vagrants".

The State party should ensure that all persons suspected of a crime are brought promptly before a judge, as required by article 9 of the Covenant. In order to comply with articles 9 and 14, the detention of persons awaiting trial should also be reviewed periodically and their trials held without undue delay. The Committee recalls, moreover, the obligation of the State

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party under article 9, paragraph 4, to enable persons in administrative detention to initiate proceedings in order to test the legality of their detention.

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at paras. 77(14)-77(16).

(14) The Committee regrets the lack of clarity about the law and practice in matters of detention in custody: the duration of such detention, and access to a lawyer during such detention. It points out that it has been given no information on the total duration of pre-trial detention or the offences involved. It is concerned at the lack of clarity concerning the safeguards laid down in article 9, paragraph 3, of the Covenant. The Committee also notes the persistent occurrence of cases of arbitrary detention.

The State party is requested to elaborate on the compatibility of its legislation and practice in matters of detention in custody and pre-trial detention with article 9 of the Covenant.

(15) While noting the explanations given by the delegation of the State party about the periodic and spontaneous inspections of prison establishments by the authorities, the Committee notes that detention conditions inconsistent with article 10 of the Covenant persist. It also regrets the impediments to visits by United Nations-instituted treaty and non-treaty human rights mechanisms and non-governmental human rights organizations.

The state party...is encouraged to permit intergovernmental and non-governmental visits and ensure that, in actual practice, article 10 of the Covenant is strictly respected.

(16) While understanding the security requirements associated with efforts to combat terrorism, the Committee voices concern at their effects on the human rights situation in Egypt, particularly in relation to articles 6, 7, 9 and 14 of the Covenant.

...

(c) The Committee notes...that Egyptian nationals suspected or convicted of terrorism abroad and expelled to Egypt have not benefited in detention from the safeguards required to ensure that they are not ill-treated, having notably been held *incommunicado* for periods of over one month (articles 7 and 9 of the Covenant).

The State party must ensure that steps taken in the campaign against terrorism are fully in accordance with the Covenant. It should ensure that legitimate action against terrorism does not become a source of violations of the Covenant.

- Togo, ICCPR, A/58/40 vol. I (2002) 36 at paras. 78(14) and 78(15).

(14) The Committee notes with concern that, on the one hand, the provisions of the Code

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of Criminal Procedure relating to police custody contain no reference to notifying detainees of their rights, the presence of a lawyer or the right of the detainee to inform a member of his family of his arrest. On the other hand, a medical examination of the detainee is possible only at his request or at the request of a member of his family, and with the consent of the procurator's office. Moreover, the time limit of 48 hours for police custody is allegedly rarely observed in practice, and some persons have reportedly been detained for years without being charged.

...The State party should reform the provisions of its Code of Criminal Procedure that deal with police custody with a view to ensuring the effective prevention of violations of the physical and psychological integrity of persons held in police custody, and protecting their right to a defence, pursuant to articles 7, 9 and 14 of the Covenant. It should also ensure that justice is administered in a timely fashion, in accordance with article 14.

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

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

- Estonia, ICCPR, A/58/40 vol. I (2003) 41 at paras. 79(7) and 79(11).

(7) The Committee welcomes the delegation's affirmation that the problem of prison overcrowding is being resolved, through the decreasing number of persons detained owing, *inter alia*, to increasing resort to alternative forms of punishment and the opening of a new spacious prison in Tartu.

...

(11) The Committee is concerned at information that deserters from the armed forces may have been kept in solitary confinement for up to three months.

The State party is under an obligation to ensure that the detention of alleged deserters is in conformity with articles 9 and 10 of the Covenant.

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- Luxembourg, ICCPR, A/58/40 vol. I (2003) 45 at paras. 80(6) and 80(8).

(6) The Committee continues to be concerned, on the one hand, about the maximum length of time detainees may be held in solitary confinement, i.e. six months, and the lack of information on the conditions in which such treatment is applied and, on the other hand, by the holding of detainees *incommunicado*, even though this has happened only once in 12 years.

The State party should ensure that practices with regard to the treatment of detainees are in keeping with articles 7, 9 and 10 of the Covenant. In this connection, the State party should adopt legislation regulating and limiting *incommunicado* detention with the long-term objective of eliminating it completely, particularly during pre-trial detention.

...

(8) The Committee remains concerned that, for a large number of offences, the systematic deprivation of the right to vote is an additional penalty in criminal cases (article 25 of the Covenant).

The State party should take steps to bring its legislation into line with paragraph 14 of general comment No. 25.

- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(19).

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

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

- Portugal, ICCPR, A/58/40 vol. I (2003) 56 at paras. 83(5), 83(8), 83(10), 83(11), 83(13), 83(14) and 83(16).

(5) The Committee welcomes the decrease in prison overpopulation achieved in recent years, as well as the measures adopted to improve the situation of prisoners.

...

(8) The Committee is concerned about reported cases of disproportionate use of force and ill-treatment by the police, occurring particularly at the time of arrest and during police custody, and resulting, in some instances, in the death of the victims. Police violence against

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persons belonging to ethnic minorities appears to be recurrent. The Committee is equally concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases, particularly those relating to the deaths of several persons in 2000 and 2001, allegedly caused by police officers (arts. 2, 6, 7 and 26).

(a) The State party should end police violence without delay. It should increase its efforts to ensure that education on the prohibition of torture and ill-treatment, as well as sensitization on issues of racial discrimination, are included in the training of law enforcement personnel. Efforts should also be made to recruit members of minority groups into the police.

(b) The State party should ensure that all alleged cases of torture, ill-treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished, and that compensation is provided to the victims or their families. To this end, a police oversight service, independent from the Ministry of the Interior, should be created...

...

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

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

...

(11) The Committee is concerned that, despite considerable improvement, overpopulation in prisons still amounts to 22 per cent, that access to health care remains problematic and that pre-trial and convicted detainees are not always kept separately in practice (arts. 7 and 10).

The State party should ensure that all persons deprived of liberty are treated with humanity and with respect for their inherent dignity as human beings. It should intensify its efforts to reduce the overpopulation in prisons and ensure that pre-trial and convicted detainees are kept separately. Appropriate and timely medical care must be available to all detainees.

...

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

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

(14) The Committee is concerned that a person may be held in pre-trial detention for a

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

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

...

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

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

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at para. 84(17).

(17) The Committee notes with concern that, despite the recent separation of prison facilities into pre-trial centres and sentence-enforcement prisons, prisons are still overcrowded and detainees awaiting or undergoing trial are still put together with convicted prisoners.

The State party should take appropriate steps to prevent prison overcrowding and ensure that accused persons are segregated from convicted persons in accordance with article 10 of the Covenant.

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at paras. 85(10), 85(12), 85(13) and 85(18).

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

...

(12) While welcoming the State party's decision to review the need to maintain the declared state of emergency and to prolong it on a yearly rather than an indefinite basis, the Committee remains concerned about the sweeping nature of measures during the state of emergency that appear to derogate from Covenant provisions other than article 9, derogation from which was notified by the State party upon ratification. In the Committee's opinion,

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these derogations extend beyond what would be permissible under those provisions of the Covenant which allow for the limitation of rights (e.g. arts. 12, para. 3, 19, para. 3, and 22...). As to measures derogating from article 9 itself, the Committee is concerned about the frequent use of various forms of administrative detention, particularly for Palestinians from the Occupied Territories, entailing restrictions on access to counsel and on the disclosure of full reasons for the detention. These features limit the effectiveness of judicial review, thus endangering the protection against torture and other inhuman treatment prohibited under article 7 and derogating from article 9 more extensively than what in the Committee's view is permissible pursuant to article 4. In this regard, the Committee refers to its earlier concluding observations on Israel and to its general comment No. 29.

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

(13) The Committee is concerned that the use of prolonged detention without any access to a lawyer or other persons in the outside world violates the Covenant (arts. 7, 9, 10 and 14, para. 3 (b)).

The State party should ensure that no one is held for more than 48 hours without access to a lawyer.

...

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

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

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at paras. 63(12), 63(14) and 63(17).

(12) The Committee is concerned about the reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and the lack of legislation specifically prohibiting torture in accordance with articles 7 and 10 of the Covenant...

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The State party should institute an effective system of monitoring treatment of all detainees, to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should ensure that all allegations of torture are effectively and promptly investigated by an independent authority, that those found responsible are prosecuted, and that victims are given adequate compensation. Free access to legal counsel and a doctor should be guaranteed in practice, immediately after arrest and during all stages of detention...

...

(14) The Committee is concerned that the law allowing for warrantless arrest is open to abuse, in that arrests in practice do not always respect the statutory conditions that the person arrested is actually committing a crime or that the arresting officer has "personal" knowledge of facts indicating that the person arrested committed the crime. The Committee is also concerned that a vaguely worded anti-vagrancy law is used in order to arrest persons without warrant, especially female prostitutes and street children.

The State party should ensure that its laws and practices with regard to arrest are brought into full conformity with article 9 of the Covenant.

...

(17) The Committee is concerned that the measures of protection of children are inadequate and the situation of large numbers of children, particularly the most vulnerable, is deplorable. While recognizing that certain legislation has been adopted in this respect, many problems remain in practice, such as:

(a) the absence of adequate legislation governing juvenile justice and the deplorable situation of children in detention, including those held without evidence for prolonged periods of time;

(b) persistent reports of ill-treatment and abuse, including sexual abuse, in situations of detention and children being detained together with adults where conditions of detention may amount to cruel, inhuman and degrading treatment (art. 7);

...

The State party should:

(a) Expedite the adoption of legislation governing juvenile justice which complies with international standards of juvenile justice in accordance with article 10, paragraph 3, of the Covenant. The Committee recommends that training for professionals in the area of administration of juvenile justice be enhanced and that human and financial resources for effective implementation of the new legislation be secured;

...

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at paras. 64(7), 64(8), 64(12) and 64(15).

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(7) The Committee welcomes the notable achievements in addressing the problem of overcrowding in prisons through increasing resort to alternative forms of punishment, amnesties and reduced use of pre-trial detention.

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

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

...

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

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

...

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

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

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

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at paras. 65(10) and 65(11).

(10) While acknowledging the State party's admission that the average length of pre-trial detention is unsatisfactory and its attempt to remedy the situation in the proposed code of criminal procedure, the Committee is concerned about the length of pre-trial detention, which is often incompatible with articles 9, paragraph 3, and 14. While being aware of the draft criminal procedure law intended, *inter alia*, to speed up trials, the Committee remains concerned at the length and frequency of pre-trial detention, particularly with regard to juvenile offenders.

The State party should take all legislative and administrative measures to ensure compliance with articles 9, paragraph 3, and 14 as a matter of priority.

(11) The Committee notes the information provided by the delegation regarding the improvement of the situation of overcrowding in prisons, as well as measures envisaged by the State party to increase use of alternative forms of punishment. However, in view of reports that overcrowding in prisons continues to be a concern, the Committee should be provided with specific information to indicate to what extent overcrowding in prisons is a problem (art. 10).

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

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at paras. 66(11), 66(13) and 66(15).

(11) While noting that corporal punishment has not been imposed as a sanction by the courts for about 20 years, the Committee expresses concern that it is still statutorily permitted, and that it is still used as a prison disciplinary punishment. Moreover, despite directives issued by the Ministry of Education in 2001, corporal punishment still takes place in schools (art. 7).

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

...

(13) The Committee is concerned that the Prevention of Terrorism Act (PTA) remains in

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force and that several of its provisions are incompatible with the Covenant (arts. 4, 9 and 14). The Committee welcomes the decision of the Government, consistent with the Ceasefire Agreement of February 2002, not to apply the provisions of the PTA and to ensure that normal procedures for arrest, detention and investigation prescribed by the Criminal Procedure Code are followed. The Committee is also concerned that the continued existence of the PTA allows arrest without a warrant and permits detention for an initial period of 72 hours without the person being produced before the court (sect. 7), and thereafter for up to 18 months on the basis of an administrative order issued by the Minister of Defence (sect. 9). There is no legal obligation on the State to inform the detainee of the reasons for the arrest; moreover, the lawfulness of a detention order issued by the Minister of Defense cannot be challenged in court. The PTA also eliminates the power of the judge to order bail or impose a suspended sentence, and places the burden of proof on the accused that a confession was obtained under duress. The Committee is concerned that such provisions, incompatible with the Covenant, still remain legally enforceable, and that it is envisaged that they might also be incorporated into the Prevention of Organized Crimes Bill 2003.

The State party is urged to ensure that all legislation and other measures...taken to fight terrorism are compatible with the provisions of the Covenant. The provisions of the Prevention of Terrorism Act designed to fight terrorism should not be incorporated into the draft Prevention of Organized Crime Bill to the extent that they are incompatible with the Covenant.

...

(15) The Committee notes with concern that overcrowding remains a serious problem in many penitentiary institutions, with the inevitable adverse impact on conditions of detention in these facilities (art.10).

The State party should pursue appropriate steps to reduce overcrowding in prisons, including through resorting to alternative forms of punishment. The National Human Rights Commission should be granted sufficient resources to allow it to monitor prison conditions effectively.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(9).

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

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

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at paras. 69(11), 69(14), 69(15) and 69(17).

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

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

...

(14) While noting the State party's acknowledgment that there are problems with lengthy pre-trial detentions, as well as its denial that *incommunicado* detention is practised, the Committee remains concerned that domestic law provides for the possibility that a detainee may not be brought for the first time before a judge until 44 days after his detention and about reports that prisoners are kept in *incommunicado* detention, and that in both cases this apparently occurs without access to a lawyer (art. 9, paras. 3 and 4).

The State party should correct the above practice forthwith, as it is incompatible with article 9, paragraphs 3 and 4, of the Covenant. It should amend its relevant legislation without delay to ensure that anyone arrested or detained on a criminal charge is brought promptly before a judge, in conformity with the provisions of article 9, paragraph 3, of the Covenant.

(15) While acknowledging the efforts made by the State party to reform its prison system and construct new prison facilities to overcome the problem of overcrowding, the Committee expresses its concern at the persistence of poor prison conditions and serious overcrowding. It also notes that the backlog in the adjudication of cases encountered by the judicial system contributes to this situation.

The State party should take appropriate measures to reduce the number of persons in detention and to improve prison conditions in order to comply with article 10 of the Covenant. Additional resources should be allocated to the judiciary, in order to reduce the number of detainees in pre-trial detention.

...

(17) The Committee is concerned about the compatibility with the Covenant of the low age of criminal responsibility in Suriname (10 years), having regard in particular to reliable

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information about the ill-treatment of children in detention and the long delays in pending trials.

The State party should revise its legislation with regard to the age of criminal responsibility, which at its present level is unacceptable under international standards. The State party should inform the Committee as to how its practice complies with articles 10, paragraph 2 (b), 14, paragraph 4, and 24 of the Covenant.

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(13), 70(17), 70(18) and 70(21).

(13) The Committee is concerned about the broad array of crimes for which the death penalty may be imposed. It finds incompatible with the Covenant that the death penalty is mandatory for the crimes of murder, aggravated robbery, treason and terrorism resulting in the death of a person, and the imposition of death sentences by field courts-martial without the possibility of appeal or to seek pardon or commutation of the sentence. The Committee also expresses its concern about the long periods of time which convicted prisoners spend on death row (almost 20 years in one case) (arts. 6 and 14).

The State party is urged to limit the number of offences for which the death penalty is provided and to ensure that it is not imposed except for the most serious crimes. The State party should also abolish mandatory death sentences and ensure the possibility of full appeal in all cases, as well as the right to seek pardon or commutation of the sentence.

...

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

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

(18) The State party has acknowledged the deplorable prison conditions in Uganda. The most common problems are overcrowding, scarcity of food, poor sanitary conditions and inadequate material, human and financial resources. The treatment of prisoners continues to be a matter of concern to the Committee. There are reported incidents of corporal punishment for disciplinary offences. Solitary confinement and deprivation of food are also

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used as disciplinary measures. Juveniles and women are often not kept separate from adults and males. The Committee has taken note of the measures implemented by the State party to counteract these shortcomings, including the introduction of community service as an alternative to imprisonment. However, it notes that they are inadequate to overcome the problems. It is also concerned about the high percentage of persons detained on remand (almost 70 per cent of inmates) (arts. 7 and 10).

The State party should terminate practices contrary to article 7 and bring prison conditions into line with article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. It should also take immediate action to reduce overcrowding in prisons as well as the number of persons detained on remand.

...

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

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

- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at paras. 71(11) and 71(13).

(11) The Committee is concerned that under article 12 of the Law on Pre-Trial Detention and the Code on Enforcement of Punishment adults may be detained together with minors in “exceptional cases”. While noting the State party’s explanation that separation of minors and adults is the norm, the Committee observes that the law does not contain criteria for determining which cases are exceptional.

The State party should ensure that juveniles accused of criminal offences and deprived of their liberty are separated from adults, in accordance with article 10, paragraph 2 (b), of the Covenant.

...

(13) The Committee is concerned that persons may still be detained in respect of administrative offences, and it regrets the paucity of information it has received on various forms of administrative detention, such as involuntary psychiatric care, immigration detention and detention as administrative punishment. It is also concerned that persons may be detained in police custody beyond the 48-hour limit within which they must either be

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brought before a judge on criminal charges or be made subject to the proceedings applicable to administrative offences, and that they may be returned to police custody for further investigation (arts. 7 and 9).

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

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at paras. 72(16) and 72(18) - 72(20).

(16) The Committee again voices concern over the rights of individuals in custody, bearing in mind the requirements of articles 7, 9 and 14 of the Covenant.

The State party should give priority to the amendment of its Code of Criminal Procedure, which has been planned for many years, and guarantee the rights of individuals in detention to notify their immediate families that they have been detained and to have access to a lawyer and a doctor within the first few hours of detention. Provision should also be made for routine medical checks at the beginning and end of periods in custody.

...

(18) The Committee is concerned that, despite the recommendations it made in 1998, the State party has not ended its practice of keeping mentally ill people in prisons and psychiatric annexes to prisons for months before transferring them to social protection establishments. It reminds the State party that this practice is inconsistent with articles 7 and 9 of the Covenant.

The State party should end this practice as quickly as possible. It should also ensure that providing mental patients with care and protection and managing social protection establishments both form part of the Ministry of Health's responsibilities.

(19) The Committee is concerned at persistent prison overcrowding in Belgium, due in part to an increase in pre-trial detention, a rise in the number of long prison sentences and a reduction in numbers released on parole (arts. 7 and 10).

The State party should make greater efforts as part of a policy of seeking a reduction in numbers of detainees.

(20) The Committee is concerned at the fact that, nearly seven years after the creation of the Dupont Commission, the State party has still not modernized its prison legislation. It does

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take note of the assurance by the delegation that a bill on the subject is to be discussed during the present session of the legislature as a matter of priority (art. 10).

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

- Liechtenstein, ICCPR, A/59/40 vol. I (2004) 61 at para. 73(11).

(11) The Committee is concerned about shortcomings in the protection of the rights of arrested persons and persons in pre-trial detention. It regrets that the Criminal Procedure Code does not require that persons in detention be informed of their rights to remain silent. It is also concerned about the scope of the right of an arrested or detained person to be brought promptly before a judge and to have access to legal assistance. Finally, it expresses concern about the justification of the rule allowing extensions of time for “imprisonment with restrictions” (arts. 9 and 14).

The State party should bring its domestic legislation into conformity with articles 9, paragraph 3, and 14, paragraph 3 (d), of the Covenant in relation to these concerns.

- Namibia, ICCPR, A/59/40 vol. I (2004) 64 at paras. 74(13) and 74(14).

(13) The Committee appreciates the efforts undertaken by the State party in increasing the number of magistrates throughout the country, so as to ensure strict observance of the 48-hour rule for bringing a suspect before a trial judge. Nevertheless, it remains concerned that cases of prolonged pre-trial detention not compatible with article 9 of the Covenant may continue to occur.

The State party should continue its efforts to ensure respect of the 48-hour rule and should closely monitor all cases where this rule is not respected.

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

The State party should consider establishing an independent body that would be able to visit all places of detention and conduct investigations into violations of rights and abuses in

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prisons and places of detention, and to investigate acts of police brutality in general.

- Finland, ICCPR, A/60/40 vol. I (2004) 22 at para. 81(11).

(11) While noting that there is a bill on pre-trial detention which calls for suspects to be kept separate from convicts except in exceptional circumstances which must, in any event, be clearly defined and consistent with the Covenant, the Committee feels that some of the practical difficulties cited by the delegation, such as a shortage of staff and space, are no justification for any infringement of article 10, paragraph 2 (a), of the Covenant.

The State party should ensure that the bill on pre-trial detention is compatible with article 10, paragraph 2 (a), of the Covenant, and should take such administrative and budgetary steps as are appropriate to remedy the practical difficulties mentioned by the delegation.

- Albania, ICCPR, A/60/40 vol. I (2004) 25 at paras. 82(13) and 82(16).

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

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

...

(16) The Committee is concerned about inhumane conditions of detention, e.g. in police custody, about the number of persons on remand and conditions of detention, the condition of juvenile and female detainees as well as the lack of compensation for unlawful arrest or detention (arts. 9 and 10).

The State party is urged to improve the conditions of detention for those held on remand and for convicted persons. Individuals held in remand detention should be segregated from convicted persons. The State party should also provide the necessary measures for victims of unlawful arrest or detention to claim compensation. The State party is reminded that, under article 9, paragraph 3, it shall not be the general rule that suspected persons are

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detained while awaiting trial. The State party should develop an effective system of bail.

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at paras. 83(13) and 83(15) - 83(17).

(13) While welcoming the fact that no one sentenced to capital punishment has been executed in Benin in almost 18 years, the Committee notes with concern that capital punishment is not limited to the most serious crimes. It is concerned that some individuals have been on death row for many years, and is disturbed by contradictory reports regarding their conditions of detention (articles 6, 7 and 10 of the Covenant).

The State party should limit the death penalty to the most serious crimes. It should consider abolishing the death penalty and acceding to the Second Optional Protocol to the Covenant. The Committee recommends that the State party commute all existing death sentences into terms of imprisonment, immediately verify the conditions of detention of those on death row and ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are respected in all situations.

...

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

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

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

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

(17) The Committee, while taking note of the efforts made by the State party to improve conditions of detention, continues to be concerned by the situation in prisons, particularly

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in the areas of sanitation and access to health care and food. It is concerned at the extreme overcrowding of prisons and at the fact that juveniles are not always held separately from adults (articles 7, 10 and 24 of the Covenant).

The State party must guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly their right to live in hygienic facilities and to have access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. As the State party is unable to meet the needs of detainees, it must reduce the prison population as soon as possible. Lastly, special protection should be provided for juveniles, and all juveniles, including girls, should be systematically separated from adults.

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at paras. 84(11) and 84(14) - 84(17).

(11) The Committee is concerned that, even though the death penalty has not been applied since 1994 and many of those sentenced to death have had their sentences commuted, the number of offences punishable by the death penalty has risen since the previous periodic report was considered (Covenant, art. 6).

In accordance with article 6 of the Covenant, the State party should reduce to a minimum the number of offences punishable by the death penalty, with a view to abolishing capital punishment. The State party should also commute the sentences of all persons sentenced to death.

...

(14) The Committee remains concerned at the numerous allegations of torture and ill-treatment of detainees and at the fact that the officials who are guilty of such acts are generally liable to disciplinary action only, where any sanction exists. In this context, the Committee notes with concern that no independent inquiries are conducted in police stations and other places of detention in order to guarantee that no torture or ill-treatment takes place.

The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. The conclusions of such examinations should be studied in depth by the relevant authorities so that those responsible can be not only disciplined but also punished under criminal law. All places of detention should be subject to independent inspection (Covenant, arts. 7 and 10).

(15) The Committee considers the period of custody during which a suspect may be held without being brought before a judge - 48 hours (renewable once) for ordinary crimes and 96 hours (renewable twice) for crimes related to terrorism - to be excessive.

The State party should review its legislation on custody with a view to bringing it into line

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with the provisions of article 9 and all the other provisions of the Covenant.

(16) The Committee is concerned that the accused may have access to the services of a lawyer only from the time at which their custody is extended (that is, after 48 or 96 hours). It recalls that, in its previous decisions, it has held that the accused should receive effective assistance from a lawyer at every stage of the proceedings, especially in cases where the person may incur the death penalty.

The State party should amend its legislation and practice to allow a person under arrest to have access to a lawyer from the beginning of their period in custody (Covenant, arts. 6, 7, 9, 10 and 14).

(17) The Committee remains concerned about the reports of poor conditions in prisons, particularly the shortage of medical care, the lack of rehabilitation programmes and the lack of visiting areas (Covenant, arts. 7 and 10).

The State party should improve prison conditions in line with article 10 of the Covenant and should institute alternative penalties.

- Poland, ICCPR, A/60/40 vol. I (2004) 40 at paras. 85(12) and 85(13).

(12) While taking note of measures to address overcrowding in prisons, the Committee remains concerned that many inmates still occupy cells which do not meet the requirements established by the Standard Minimum Rules for the Treatment of Prisoners. It is also concerned that judges do not make full use of alternative types of punishment available under the law (art. 10).

The State party should take further measures to address overcrowding in prisons and to ensure compliance with the requirements of article 10. It should also encourage the judiciary to impose alternative forms of punishment more frequently.

(13) While welcoming recent changes in legislation designed to reduce pre-trial detention, the Committee is concerned that the number of persons in pre-trial detention remains high (art. 9).

The State party should take further steps to reduce the number of persons in pre-trial detention.

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at paras. 86(18) and 86(19).

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(18) The Committee is concerned at reports that police custody is frequently resorted to abusively, and that torture is frequently practised in such custody. It is especially concerned at the information about the extremely high number of deaths in custody provided by the delegation. While noting the delegation's explanations in this respect, it remains disturbed by reports that law enforcement officials responsible for acts of torture are seldom prosecuted, and that forms for the filing of complaints (so-called "P3 forms") can only be obtained from the police themselves. While welcoming the power given to the Kenya Human Rights Commission of unrestricted access to places of detention, it is concerned that such access is sometimes wrongfully denied by the police (articles 2, 6, 7 and 9 of the Covenant).

The State party should take more effective measures to prevent abuses of police custody, torture and ill-treatment, and should strengthen the training provided to law enforcement personnel in this area. It should ensure that allegations of torture and similar ill-treatment, as well as of deaths in custody, are promptly and thoroughly investigated by an independent body so that perpetrators are brought to justice, and that complaint forms are available from a public body other than the police. In particular, High Court judgements in such cases should be enforced without delay...The State party should enforce the law requiring that access to places of detention be given to the Kenya Human Rights Commission.

(19) While taking note of efforts made by the State party to improve conditions of detention and to ease prison overcrowding through passage of the Community Service Orders Act, the Committee continues to be concerned at the situation in prisons, particularly in the areas of sanitation and access to health care and adequate food. It is concerned at the extreme overcrowding of prisons, which was acknowledged by the delegation and which, combined with sanitation and health-care deficiencies, may result in life-threatening conditions of detention (articles 7 and 10 of the Covenant).

The State party must guarantee the right of detainees to be treated humanely and with respect for their dignity, in particular their right to live in hygienic facilities and to have access to health care and adequate food...

- Mauritius, ICCPR, A/60/40 vol. I (2005) 52 at paras. 88(12) - 88(16).

(12) While the Committee understands the security obligations required in the fight against terrorism, it believes that the impact of the Prevention of Terrorism Act 2002 may be all the more serious as the notion of terrorism is vague and lends itself to broad interpretations. While noting that no arrests have been made under the counter-terrorism Act and despite certain guarantees undertaken by the State party such as video recordings of interrogations and of suspects in detention, the Committee expresses concern that the provisions of that Act denying bail and access to counsel for 36 hours are at variance with the provisions of the

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Covenant (Covenant, arts. 7 and 9).

The State party should ensure that its legislation adopted in the context of the fight against terrorism is fully consistent with all the provisions of the Covenant, including article 4, taking into account general comment No. 29.

(13) The Committee notes with concern concurring reports from non-governmental organizations on numerous instances of ill-treatment and deaths of persons in custody and in prisons attributable to police officers. The Committee is concerned at the fact that few complaints are actually investigated in order to identify and punish the officers responsible. It notes with concern the limitations of the investigations carried out by the Complaints Investigation Bureau, as well as the shortcomings of the National Human Rights Commission (Covenant, arts. 6, 7 and 10). In that regard, it is concerned at the absence of an independent appeals body for complaints against the police authorities.

The State party should ensure that investigations into all violations under articles 6, 7 and 10 of the Covenant are carried out. It should, depending on the findings of the investigations, prosecute the perpetrators of such violations and pay compensation to the victims. The State party should also ensure that the victims have access to genuinely independent bodies for investigating those complaints...

(14) The Committee reiterates its concern that the powers to detain provided for by article 5, paragraphs 1 (k) and 4, of the Constitution are incompatible with article 9, paragraphs 3 and 4, of the Covenant.

The State party should review these constitutional provisions that are incompatible with the Covenant.

(15) The Committee notes with concern that bail is not allowed under the Dangerous Drugs Act 2000 for persons arrested or held in custody for the sale of drugs, especially where they have already been convicted of any drug offence. The Act also permits suspects to be remanded in custody for 36 hours without access to counsel (Covenant, art. 9).

The State party should review the Dangerous Drugs Act 2000 in order to enable judges to make a case-by-case assessment on the basis of the offence committed and to give full effect to the provisions of article 9, paragraph 2, of the Covenant.

(16) The Committee notes with concern the alarming finding of the report “Developments in the conduct of imprisonment” drawn up in the wake of the Beau Bassin prison incidents of 26 September 2003, which shows, in particular, the considerable percentage of the inmate population in pre-trial detention (36 per cent) and the excessive length of such detention for serious offences (Covenant, art. 9).

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The State party is urged to draw all appropriate conclusions from the above mentioned report and ensure that its pre-trial detention practice is compatible with article 9 of the Covenant.

- Uzbekistan, ICCPR, A/60/40 vol. I (2005) 56 at paras. 89(11), 89(14), 89(15) and 89(17).

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

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

...

(14) The Committee considers that the length of custody for which a suspect may be held without being brought before a judge or an officer authorized to exercise judicial power - 72 hours - is excessive (Covenant, art. 9).

The State party should ensure that a judge reviews all detentions to determine if they are legal and that all cases of detention are brought before a judge for that purpose, in conformity with the provisions of article 9 of the Covenant.

(15) The Committee notes that while under domestic law individuals have access to a lawyer at the time of arrest, this right is often not respected in practice. Those accused of criminal acts should receive effective assistance from a lawyer at every stage of the proceedings, especially in cases where the person is liable to the death penalty (Covenant, arts. 6, 7, 9, 10 and 14).

The State party should amend its legislation and practice to allow a person who has been placed under arrest to have access to a lawyer from the time of arrest.

...

(17) The Committee remains concerned that the administration of pre-trial detention centres, prison camps and prisons fail to conform to the provisions of the Covenant (Covenant, arts. 7, 9 and 10).

The State party should give priority to its review and reform of the administration of the

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penal system.

- Greece, ICCPR, A/60/40 vol. I (2005) 60 at paras. 90(9) and 90(12).

(9) The Committee is concerned about reported cases of disproportionate use of force by the police, including fatal shootings, and ill-treatment at the time of arrest and during police custody. Police violence against migrants and Roma appears to be recurrent. The Committee is equally concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases and the leniency of the courts in the few cases where law enforcement officers have been convicted (arts. 2 and 7).

(a) The State party should end police violence without delay. It should increase its efforts to ensure that education on the prohibition of torture and ill treatment, as well as sensitization on issues of racial discrimination are included in the training of law enforcement personnel;

(b) The State party should ensure that all alleged cases of torture, ill treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished under laws that ensure that sentences are commensurate with the gravity of the offence, and that compensation is provided to the victims or their families...

...

(12) The Committee is concerned at the overcrowding and poor conditions prevailing in some jails and prisons (art. 10).

While noting the State party's efforts in this regard, the Committee recommends that the State party continue to take measures to address such problems by, *inter alia*, considering additional alternative measures to imprisonment.

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at para. 91(13).

(13) The Committee notes the statement by the State party that although its effort to combat terrorism has had an impact on the enjoyment of civil and political rights in Yemen, this has not resulted in systematic and continuing violations. The Committee remains concerned, however, about reported grave violations of articles 6, 7, 9 and 14 of the Covenant committed in the name of the anti-terrorism campaign. It notes with concern reported cases of extrajudicial killings, enforced disappearances, arbitrary arrests, indefinite detention without charge or trial, torture and ill-treatment, and deportation of non-citizens to countries where they are in danger of being subjected to torture or ill-treatment.

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The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. It should bear in mind the non-derogable character of specific rights under the Covenant, in particular articles 6 and 7, which must be respected in all circumstances...

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at paras. 92(11) - 92(14).

(11) The Committee is concerned about the widespread accounts of detainees' access to a lawyer being obstructed, particularly in the period immediately following arrest. It appears that the right to consult a lawyer only arises in the State party when an arrest is registered, rather than from the actual moment of arrest (arts. 7, 9 and 14, para. 3 (b)).

The State party should take measures to ensure that the right to counsel arises at the moment of arrest, and that any instances where law enforcement officers are alleged to have obstructed access to a lawyer are fully investigated and appropriately punished. This right should also be ensured in respect of persons in need of free legal assistance.

(12) The Committee is concerned that a procurator, rather than a judge, remains responsible for authorizing arrests. This creates an imbalance in the equality of arms between the accused and the prosecution, as the procurator may have an interest in the detention of those who are to be prosecuted. Further, detainees are not brought before the procurator following their arrest. An appeal to a court to review the lawfulness and grounds of arrest is possible, but it does not guarantee the participation of the detainee (art. 9).

The State party should revise its criminal procedure legislation and introduce a system that ensures that all detainees are as a matter of course brought promptly before a judge who will decide without delay on the lawfulness of the detention.

(13) The Committee is concerned that a person may be placed under administrative arrest for up to 15 days, and that such detention is not subject to judicial supervision (art. 9).

The State party should ensure that administrative detention is subject to the same right to challenge the lawfulness of the detention as ought to pertain to other forms of detention, in light of the Committee's recommendations in paragraph 12 above.

(14) The Committee is concerned about persistent information attesting to poor conditions and overcrowding in the State party's prisons and other places of detention, and notes the relatively high rate of incarceration. It is also concerned about reports of civil society and international bodies having limited access to penitentiary institutions (art. 10).

The State party should consider alternative forms of punishment, particularly in relation to

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minor offences, such as community work and home detention. It is invited to take all necessary measures to allow independent visits to prisons and detention facilities by representatives of both national and international organizations.

- Syrian Arab Republic, ICCPR, A/60/40 vol. I (2005) 78 at para. 94(9).

(9) While noting the information provided by the State party on measures taken against some law enforcement personnel for acts of ill-treatment of prisoners, the Committee remains deeply concerned at continuing reports of torture and cruel, inhuman or degrading treatment or punishment. The Committee is also concerned that these practices are facilitated by resort to prolonged *incommunicado* detention, especially in cases of concern to the Supreme State Security Court, and by the security or intelligence services (arts. 2, 7, 9 and 10).

The State party should take firm measures to stop the use of *incommunicado* detention and eradicate all forms of torture and cruel, inhuman or degrading treatment or punishment by law enforcement officials, and ensure prompt, thorough, and impartial investigations by an independent mechanism into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies and rehabilitation to the victims.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(13), 95(15) and 95(16).

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

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

...

(15) The Committee is concerned about the persistent allegations of excessive use of force by law enforcement officials, as well as ill-treatment at the time of arrest and during police

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

The State party should guarantee in practice unimpeded access to legal counsel and doctors immediately after arrest and during detention. The arrested person should have an opportunity immediately to inform the family about the arrest and place of detention. Provision should be made for a medical examination at the beginning and end of the detention period. Provision should also be made for prompt and effective remedies to allow detainees to challenge the legality of their detention. Anyone arrested or detained on a criminal charge must be brought promptly before a judge. The State party should ensure that all alleged cases of torture, ill-treatment, disproportionate use of force by police and death in custody are fully and promptly investigated, that those found responsible are brought to justice, and that compensation is provided to the victims or their families.

(16) The Committee is concerned at the overcrowding and general conditions of places of detention, particularly with regard to sanitation and access to health care and adequate food. The Committee is also concerned that the right of detainees of access to lawyers and members of the family is not always observed in practice. The Committee considers the duration of detention before a person is brought before a judge to be incompatible with the requirements of the Covenant. The Committee deplores the continued shackling of death row prisoners and reports of prolonged solitary confinement. Pre-trial detainees frequently are not segregated from convicted prisoners. Furthermore, the Committee is concerned at the significant number of women in the prison population and the fact that juveniles are often held in adult cells (arts.7, 10 and 24).

The State party should bring prison conditions into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners as a matter of priority. The State party should guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly with regard to hygienic conditions, access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. The use of shackling and long periods of solitary confinement should be stopped immediately. Special protection should be provided for juveniles, including their compulsory segregation from adults.

ICESCR

- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at paras. 274 and 297.

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274. The Committee is deeply concerned about the living conditions of prisoners and detainees in the State party, especially with regard to access to health care and adequate food and basic facilities.

...

297. The Committee urges the State party to enact specific legislation and adopt measures necessary to improve the living conditions of prisoners and detainees.

- Georgia, ICESCR, E/2003/22 (2002) 60 at paras. 422 and 439.

422. The Committee expresses concern about the poor living conditions of the majority of the State party's population, including an inadequate supply of water and irregular provision of electricity and heating, which particularly affect the most disadvantaged and marginalized groups of society, such as older persons, persons with disabilities, internally displaced persons, prisoners and persons living in poverty.

...

439. The Committee urges the State party to continue its efforts to improve the living conditions of its population, in particular by ensuring that the infrastructure for water, energy provision and heating is improved, and by paying priority attention to the needs of the most disadvantaged and marginalized groups of society, such as older persons, persons with disabilities, internally displaced persons, prisoners and persons living in poverty.

- Estonia, ICESCR, E/2003/22 (2002) 68 at paras. 496 and 518.

496. The Committee expresses its concern that convicted prisoners in the State party are required to perform forced or compulsory work and that they face "penalties" in the form of loss of privileges, such as early release, if they refuse to do so.

...

518. The Committee recommends that the State party make work for convicted prisoners conditional on their consent, in conformity with ILO Convention No. 29 (1930) concerning forced or obligatory labour.

- Luxembourg, ICESCR, E/2004/22 (2003) 24 at paras. 81 and 93.

81. The Committee is concerned about the situation of prisoners who work for private companies and recalls that under ILO Convention No. 29 (1930) concerning forced or compulsory labour, when a private company is involved with work carried out by a prisoner, the latter must consent to such work and the conditions of work (including wages and social security) must be close to those of a free employment relationship.

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...

93. The Committee recommends that the State party ensure that a prisoner may only perform work for a private company when such work has been consented to and the labour conditions are close to those of a free working relationship as regards wages and social security.

- Brazil, ICESCR, E/2004/22 (2003) 28 at paras. 144 and 167.

144. The Committee notes with concern the living conditions of prisoners and detainees in the State party, especially with regard to provision of, and access to, health-care facilities, adequate food and safe drinking water.

...

167. The Committee urges the State party to take effective measures, including policies, programmes and specific legislation, aimed at improving the living conditions of prisoners and detainees.

- Republic of Moldova, ICESCR, E/2004/22 (2003) 49 at paras. 315 and 337.

315. The Committee is alarmed about the rising incidence of tuberculosis in the State party and notes with particular concern the acuteness of this problem in prisons where the infection rate is more than 40 times higher than the national average, according to the “Baseline Study on the Human Rights Status in the Republic of Moldova”.

...

337. The Committee recommends that the State party intensify its efforts under the National Programme of Tuberculosis Control to combat the spread of tuberculosis, including by ensuring the availability of medicines and adequate sanitary conditions in prisons.

- Yemen, ICESCR, E/2004/22 (2003) 55 at paras. 361 and 380.

361. The Committee is concerned about the living conditions of prisoners and detainees in the State party, especially women, with regard to access to health-care facilities, adequate food and safe drinking water.

...

380. The Committee urges the State party to take effective legislative or other measures to provide adequate health-care facilities, adequate food and safe drinking water to prisoners and detainees, especially women. The Committee also urges the State party to ensure the professional and social reintegration of women ex-prisoners, through vocational training.

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- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 475 and 503.

475. The Committee remains concerned about the high incidence of tuberculosis in the State party, particularly in prisons, in the Republic of Chechnya and in the regions of the Far North, in particular among indigenous communities.

...

503. The Committee recommends that the State party intensify its efforts to combat tuberculosis, under the special federal programme on urgent measures to tackle tuberculosis for the period 1998-2004, including by ensuring the availability of medicines and adequate sanitary conditions in prisons, and by taking special measures to combat the epidemic in the worst affected regions.

- Azerbaijan, ICESCR, E/2005/22 (2004) 59 at paras. 484, 496, 510 and 522.

484. The Committee is concerned about the use of forced labour as a corrective measure or as a penal sentence against persons found guilty of a crime, as provided for in the Penal Code and the Labour Code currently in force in the State party.

...

496. While welcoming the information provided by the State party's delegation that prison medical doctors are now under the supervision of the Ministry of Justice and that cases of human rights violation can be immediately brought to the attention of the Office of the Commissioner for Human Rights of Azerbaijan, the Committee is concerned about overcrowding and sub-standard conditions in prisons in Azerbaijan which have given rise to a disproportionately high rate of tuberculosis and other health problems among prisoners.

...

510. The Committee recommends that the State party abolish the use of forced labour either as a corrective measure or as a penal sentence against persons found guilty of a crime, and amend or repeal the relevant provisions of the Penal Code and the Labour Code in accordance with article 6 of the Covenant.

...

522. The Committee recommends that the State party continue to take measures to improve the sanitary and hygienic conditions in prisons and to ensure that the right to mental and physical health of all prisoners in Azerbaijan is respected, in accordance with article 12 of the Covenant.

- Zambia, ICESCR, E/2006/22 (2005) 19 at paras. 97 and 120.

97. The Committee is concerned about the living conditions of prisoners and detainees, especially with regard to access to health-care facilities, adequate food and safe drinking water.

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...

120. The Committee urges the State party to strengthen its measures, including policies, programmes and specific legislation, aimed at improving the living conditions of prisoners and detainees.

CEDAW

- Russian Federation, CEDAW, A/57/38 part I (2002) 40 at paras. 391 and 392.

391. The Committee is concerned about reports of ill-treatment of women in pre-detention centres and in prisons. The Committee is deeply concerned by the fact that, despite credible evidence that police officials have used violence against women in custody, the State party has not, as a rule, investigated, disciplined or prosecuted offenders...

392. The Committee urges the State party to take necessary measures to ensure that custodial violence by officials, including acts of sexual violence against women and girls in detention or under investigation, are prosecuted and punished as grave crimes. It also urges the State party to adopt preventive measures, including swift disciplinary inquiries and human rights education programmes for the armed forces and law enforcement personnel.

- Tunisia, CEDAW, A/57/38 part II (2002) 102 at paras. 194 and 195.

194. The Committee is concerned that there is a lack of systematic data collection on violence against women, including domestic violence, violence against women in detention centres and prisons, and sexual harassment in the workplace and in other institutions...

195. The Committee recommends that the State party devise a structure for systematic data collection on all such forms of violence against women. The Committee calls upon the State party to ensure that all violence against women is prosecuted and punished and that women victims of violence have immediate means of protection and redress...

CAT

- Benin, CAT, A/57/44 (2002) 19 at paras. 34 and 35.

34. The Committee is concerned about the following:

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...

(c) Overcrowding and deplorable physical conditions in prisons, particularly the lack of hygiene, adequate food or appropriate medical care, despite efforts by the State party and assistance from non-governmental organizations;

...

(e) The possibility, under article 18 of the Constitution, of extending police custody for up to eight days in exceptional cases;

...

(h) The possibility of keeping female detainees *incommunicado* for three months;

...

35. The Committee recommends that:

...

(g) The State party should continue to take steps to improve physical conditions in prisons and substantially to reduce the duration of *incommunicado* detention;

...

- Indonesia, CAT, A/57/44 (2002) 22 at paras. 40 and 44.

40. The Committee takes note of the following positive aspects:

...

(f) The acknowledgement of the pressing need to introduce a centralized register of detainees for the whole country, and assurances that the State party is currently studying the implementation of such a system;

(g) The interest expressed by the State party in the possibility of the Government's cooperating with national non-governmental organizations in monitoring prisons and places of detention;

...

44. The Committee further expresses its concern about the following:

...

(e) The length and terms of police custody, and the lack of adequate guarantees of the rights of persons deprived of liberty, including to notify a close relative or third party and to have access to medical assistance and counsel of their choice;

(f) In spite of the formal separation of the police and the military, the latter continues to be associated with allegations of torture and ill-treatment. The Committee is particularly concerned over the absence of habeas corpus for the military;

...

- Israel, CAT, A/57/44 (2002) 27 at paras. 50, 52 and 53.

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50. The Committee welcomes the following:

...

(d) The Israeli Supreme Court decision of April 2000 according to which the continued detention of Lebanese detainees held in Israel who did not constitute a threat to national security could not be authorized and the subsequent release of many Lebanese detainees;

...

(f) The provision of prompt judicial review of persons under detention upon their petition to the Supreme Court;

...

52. The Committee expresses concern about the following matters:

...

(d) Torture and ill-treatment of Palestinian minors is alleged, in particular of those detained in the Gush Etzion police station...

(e) While noting a substantial decrease since the examination of its previous report in the number of persons held in administrative detention, the Committee continues to be concerned that administrative detention does not conform with article 16 of the Convention;

(f) The continued use of *incommunicado* detention, even in the case of children, is a matter of grave concern to the Committee;

...

53. The Committee makes the following recommendations:

...

(b) The practice of administrative detention in the Occupied Territories should be reviewed in order to ensure its conformity with article 16;

(c) The State party should review its laws and policies so as to ensure that all detainees, without exception, are brought promptly before a judge and are ensured prompt access to a lawyer;

...

- Ukraine, CAT, A/57/44 (2002) 31 at paras. 56-58.

56. The Committee notes with appreciation:

...

(f) The establishment of the Office of the Commissioner for Human Rights (Ombudsman), charged with the protection of human rights in Ukraine, and that the Ombudsman can visit and have full access to all places where persons are deprived of liberty...

...

57. The Committee expresses its concern about the following:

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...

(f) The information received by the Committee that relatives and lawyers are informed about the detention only after the arrested person has been transferred from police custody to a pre-trial detention facility, a process that usually takes not less than two weeks. The Committee is also concerned about the lack of clear legal provisions about the exact time when a detained person can exercise his right to a defence counsel, a medical examination, and to inform a family member of his detention;

(g) The duration of pre-trial detention, which can last for up to 18 months according to the law but which in practice can be extended for up to three years, of administrative detention for up to 15 days, and of detention of “vagrants” for up to 30 days;

(h) Long-term prison sentences for the non-violent expression of ideas and information;

...

(j) Overcrowding and lack of access to basic hygienic facilities and adequate medical care, as well as the high incidence of tuberculosis, in prisons and pre-trial detention centres;

(k) The lack of adequate training of police and prison personnel in their duties under the law and on the rights of detainees;

...

58. The Committee recommends that the State party:

...

(e) Clarify and reconcile the sometimes contradictory provisions pertaining to the time at which a detained person has the right to a defence counsel and to ensure that this right is exercised from the moment of arrest;

(f) Ensure that there is a legal prohibition against carrying out interrogations of detainees without the presence of a defence counsel of his/her choice;

...

(j) Take effective measures to improve conditions in prisons and pre-trial detention centres, including those relating to space, various facilities and sanitation, and establish a system of inspection of prisons and detention centres by independent monitors, whose findings should be published;

(k) Shorten the current 72-hour pre-trial detention period during which detainees may be held in isolation cells prior to being brought before a judge;

(l) Expedite the process of training of law enforcement and medical personnel as to their duty to respect the rights and dignity of persons deprived of liberty;

...

(p) Continue the programme against tuberculosis in prisons and pre-trial detention centres;

...

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- Zambia, CAT, A/57/44 (2002) at paras. 61, 65 and 67.

61. The Committee notes with satisfaction the following elements:

...

(c) The enactment of the Zambia Police (Amendment) Act (No. 14 of 1999) which provides measures to protect and monitor persons in police custody;

...

65. Concern is...expressed regarding:

...

(b) Poor prison conditions that affect the health of both inmates and wardens, in particular the lack of health care staff and medicines as well as serious overcrowding;

...

67. While welcoming the Prisons (Amendment) Act which provides for the establishment of open air prisons, the Committee urges the State party to enhance initiatives to reduce overcrowding, increase the use of non-custodial sentences and generally improve detention facilities, especially because of the adverse effects on the health of inmates and prison staff.

- Denmark, CAT, A/57/44 (2002) 37 at paras. 72-74.

72. [The Committee]...notes with satisfaction:

(a) The adoption of the Amendment to the Act on the Administration of Justice, which has greatly tightened the controls over the use of solitary confinement, decreasing its use as well as providing for judicial control over solitary confinement while in remand;

(b) The circulars of the National Commissioner of Police, prescribing, *inter alia*, earlier access by family to detainees, mandatory medical examination of all persons placed in a detention cell, and access to a lawyer and an interpreter without delay;

...

73. The Committee is concerned about the following:

...

(b) The lack of effective recourse procedures against decisions imposing solitary confinement upon persons servicing sentences;

...

74. The Committee recommends that:

...

(c) The State party continue to monitor the effects of solitary confinement on detainees and the effects of the new bill, which has reduced the number of grounds that can give rise to solitary confinement and its length;

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(d) The law governing solitary confinement for convicted prisoners establish adequate review mechanisms relating to its determination and duration;

...

- Luxembourg, CAT, A/57/44 (2002) 39 at paras. 79 and 80.

79. The Committee expresses concern about the following:

(a) That minors ordered to be placed in disciplinary centres are put in adult prisons;

(b) The institution of solitary confinement, particularly as a preventive measure during pre-trial detention.

80. The Committee recommends that:

(a) The State party refrain from placing minors in adult prisons for disciplinary purposes;

(b) Solitary confinement be strictly and specifically regulated by law and that judicial supervision be strengthened, so that this punishment is applied only in severe circumstances, with a view to its abolition, particularly during pre-trial detention;

...

- Norway, CAT, A/57/44 (2002) 40 at paras. 84 and 85.

84. The Committee notes with satisfaction:

...

(b) The issuance of guidelines on the notification of arrest to relatives and lawyers, as well as concerning the right to access to health care for persons in police custody;

...

(d) The proposals made for an amendment to the Criminal Procedure Act to reduce the overall use of solitary confinement and to strengthen its judicial supervision by means of legal regulation and limitation;

...

85. The Committee continues to be concerned about the use of pre-trial solitary confinement.

- Russian Federation, CAT, A/57/44 (2002) 42 at paras. 89, 92 and 94.

89. The Committee notes the following positive developments:

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...

(b) The introduction of a new Criminal Code and a new Code of Criminal Procedure, as well as the State party's assurances that all of the latter Code will enter into force on 1 July 2002. The Committee welcomes the introduction in the Code of Criminal Procedure, *inter alia*, jury trials, stricter limits on detention and interrogation, provisions for exclusion of evidence obtained in the absence of a defence lawyer, and the conferral authority of a judge rather than a procurator to order an arrest;

(c) Transfer of the penal correction system from the authority of the Ministry of Internal Affairs to the authority of the Ministry of Justice;

(d) Measures introduced to improve conditions of detention in prisons and to reduce overcrowding;

...

92. The Committee also expresses its concern about the following:

...

(c) The lack of adequate access for persons deprived of liberty, immediately after they are apprehended, to counsel, doctor and family members, an all-important safeguard against torture;

...

(e) The explanation by the State party that, despite numerous allegations of violence against women in custody, no formal complaint has been received on this issue. Despite the State party's efforts to release prisoners and reduce their number in general, the population of women in custody has doubled in the past decade;

...

(g) Distressing conditions of pre-trial detention, including the prevalence of tuberculosis and other diseases, as well as the poor and unsupervised conditions of detention in IVS (temporary police detention), and SIZOs (pre-trial establishment) facilities, including the practice of placing metal shutters in front of cell windows, preventing natural light and ventilation in the cells, reportedly because, by law, inmates are prohibited from communicating with one another;

...

(i) Reports of conditions amounting to inhuman or degrading treatment, of children in institutions or places of detention;

...

94. The Committee recommends that the State party:

...

(b) Adopt measures to permit detainees access to a lawyer, doctor, and family members from the time they are taken into custody; inform suspects and witnesses of their rights at the beginning of detention; and ensure that legal assistance and a doctor will be provided at the request of detained persons rather than solely when permitted by officials. Urgent consideration should be given to making a medical examination compulsory for persons

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when they enter IVS and SIZOs, and to the establishment of a health service independent from the Ministries of Internal Affairs and Justice to conduct such examinations;

...

(d) Improve conditions in prisons and pre-trial detention centres so that they are in conformity with the requirements of the Convention. The State party should ensure, in particular, that the prohibition of communication between inmates in pre-trial detention is not imposed on all inmates without distinction, but limited to identified inmates, when necessary and on the basis of a court decision setting a time limit for such conditions of detention;

(e) Establish a programme of unannounced inspections of pre-trial detention centres and other places of confinement, by credible impartial investigators, whose findings should be made public;

(f) Consider the creation of an independent body to inspect prisons, monitor all forms of violence in custody, including sexual violence against both men and women, and all forms of inter-prisoner violence, including proxy violence with the acquiescence of officials. The participation of public defenders in the investigation stage following detention would offer a safeguard for detainees;

(g) Ensure training about obligations under the Convention for (i) doctors to detect signs of torture or ill-treatment of persons who have been or are in custody, (ii) law enforcement personnel and judges to initiate prompt and impartial investigations, and (iii) military personnel to be aware of the prohibition of torture and that an order from a superior officer may not be invoked as a justification of torture;

...

(j) Distribute and ensure implementation of appropriate instructions to all relevant officials on the prohibition of ill-treatment and acts of torture against children in institutions and prisons under the jurisdiction of the State;

...

- Saudi Arabia, CAT, A/57/44 (2002) at paras. 100 and 101.

100. The Committee is concerned about the following:

...

(d) Allegations of prolonged pre-trial detention of some individuals beyond the statutory limits prescribed by law, which heightens the risk of, and may on occasion of itself constitute, conduct in violation of the Convention. In this connection, the Committee expresses its concern at instances of denial, at times for extended periods, of consular access to detained foreigners. Moreover, the Committee is concerned at the limited degree of judicial supervision of pre-trial detention;

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(e) Reports of *incommunicado* detention of detained persons, at times for extended periods, particularly during pre-trial investigations. The lack of access to external legal advice and medical assistance, as well as to family members, increases the likelihood that conduct violating the Convention will not be appropriately pursued and punished;

...

101. The Committee recommends, in particular, that the State party:

...

(d) Ensure that all places of detention or imprisonment conform to standards sufficient to guarantee that no person is thereby subjected to torture or cruel, inhuman or degrading treatment or punishment;

...

(h) Ensure, in practice, that persons detained in custody are able to exercise prompt access to legal and medical expertise of choice, to family members and, in the case of foreign nationals, to consular personnel;

...

- Uzbekistan, CAT, A/57/44 (2002) 54 at paras. 113, 115 and 116.

113. The Committee notes the following positive developments:

...

(e) The report by the representative of the State party of the establishment of an appeals system for court sentences and the introduction of alternatives to prison sentences, releasing detainees on bail;

...

115. The Committee expresses concern about the following:

...

(b) The lack of adequate access for persons deprived of liberty, immediately after they are apprehended, to independent counsel, a doctor or medical examiner and family members, an important safeguard against torture;

(c) The insufficient level of independence and effectiveness of the 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 extended up to 12 months;

...

116. The Committee recommends that the State party:

...

(f) Adopt measures to permit detainees access to a lawyer, a doctor and family members from the time they are taken into custody and ensure that doctors will be provided at the request of detained persons without the need to obtain the permission of prison officials; and maintain a register with the names of all detainees, the times at which notifications of lawyers, doctors and family members have taken place and the results of medical

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examinations; this register should be accessible to the lawyers and others as appropriate;

(g) Improve conditions in prisons and pre-trial detention centres and establish a system allowing for unannounced inspections of those places by credible impartial investigators, whose findings should be made public. The State party should also take steps to shorten the current pre-trial detention period and provide independent judicial oversight of the period and conditions of pre-trial detention. Furthermore, the order for an arrest should be made only by a court;

(h) Ensure that law enforcement, judicial, medical and other personnel who are involved in custody, interrogation, treatment or who otherwise come into contact with detainees are trained with regard to the prohibition of torture and that the requalification procedure ("re-attestation") of those personnel include both verification of an awareness of the Convention's requirements and a review of their records in treating detainees;

(i) Consider further steps to transfer the prison system from the Ministry of Internal Affairs to the Ministry of Justice, thereby advancing the conditions of the penitentiary system in accordance with the Convention;

...

- Cyprus, CAT, A/58/44 (2002) 21 at paras. 33 and 34.

33. The Committee welcomes the recent legislative, administrative and institutional developments that took place in the State party since the consideration of its previous periodic report, namely:

(a) The bill for the amendment of the Ratification Law making the subjection to cruel, inhuman or degrading treatment or punishment as described in article 16 of the Convention a criminal offence, and providing for the presumption of ill-treatment if it is ascertained by medical examination that the person detained bears external injuries which were not present at the time of arrest;

...

(j) The improvement and renovation of prison facilities;

...

34. Although there is a generally positive trend regarding the treatment of detained persons by police, the existence of some cases of ill-treatment require that the authorities remain vigilant.

- Egypt, CAT, A/58/44 (2002) 22 at paras. 39, 41 and 42.

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39. The Committee welcomes the following:

- (a) The enactment of legislation banning flogging as a disciplinary penalty for prisoners;
- (b) Circular letter No. 11 of 1999 regulating the procedures for the unannounced inspections which the Department of Public Prosecutions has an obligation to conduct in places of detention, particularly if it receives written or verbal reports or notifications indicating that a person is being held illegally at a police station or other place of detention;

...

41. The Committee is concerned about the following:

...

(b) The many consistent reports received concerning the persistence of the phenomenon of torture and ill-treatment of detainees by law enforcement officials, and the absence of measures to ensure effective protection and prompt and impartial investigations. Many of these reports relate to numerous cases of deaths in custody;

(c) The Committee expresses particular concern at the widespread evidence of torture and ill-treatment in administrative premises under the control of the State Security Investigation Department, the infliction of which is reported to be facilitated by the lack of any mandatory inspection by an independent body of such premises;

(d) The many reports of abuse of under-age detainees, especially sexual harassment of girls, committed by law enforcement officials, the lack of monitoring machinery to investigate such abuse and prosecute those responsible, and the fact that minors kept in places of detention have contact with adult detainees;

(e) The reports received concerning ill-treatment inflicted on men because of their real or alleged homosexuality, apparently encouraged by the lack of adequate clarity in the penal legislation;

(f) The continued use of administrative detention in Egypt;

...

(h) The excessive length of many of the proceedings initiated in cases of torture and ill-treatment, and the fact that many court decisions to release detainees are not enforced in practice;

...

42. The Committee recommends that the State party:

...

(c) Guarantee that all complaints of torture or ill-treatment, including those relating to death in custody, are investigated promptly, impartially and independently;

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(d) Ensure that mandatory inspection of all places of detention by prosecutors, judges or another independent body takes place, and does so at regular intervals;

(e) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families;

(f) Eliminate all forms of administrative detention. In addition, the premises controlled by the State Security Investigation Department should be subject to mandatory inspection, and reports of torture or ill-treatment committed there should be investigated promptly and impartially;

(g) Ensure that legislation gives full effect to the rights recognized in the Convention and institute effective remedies for the violation of such rights; ensure in particular that proceedings take place within a reasonable time after the submission of complaints, and that any court decision to release a detainee is actually enforced;

(h) Abolish *incommunicado* detention;

...

(j) Halt all practices involving abuse of minors in places of detention and punish the perpetrators, and ban the holding of under-age detainees with adult detainees;

(k) Remove all ambiguity in legislation which might underpin the persecution of individuals because of their sexual orientation. Steps should also be taken to prevent all degrading treatment during body searches;

...

(m) Ensure that non-governmental organizations engaged in human rights work can pursue their activities unhindered, and in particular that they have access to all places of detention and prisons so as to guarantee greater compliance with the ban on torture and ill-treatment;

...

(o) Continue the process of training law enforcement personnel, in particular as regards the obligations set out in the Convention and the right of every detainee to medical and legal assistance and to have contact with his or her family;

...

- Estonia, CAT, A/58/44 (2002) 26 at paras. 48-50.

48. The Committee notes the following positive developments:

...

(d) The entry into force on 1 September 2002 of the new Penal Code, which introduces torture as an offence and aims at developing a flexible and individualized penal system that will increase the possibilities for the rehabilitation of prisoners by providing them with an

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opportunity to work or study;

(e) The improvement of prison conditions through, in particular, the suppression of special punishment cells, the renovation of detention facilities and the opening of the new Tartu prison, which will conform to recognized international standards. The Committee also welcomes the entry into force on 1 December 2000 of the Imprisonment Act, based on the “European Prison Rules”, as well as the power given to the Legal Chancellor and members of the Health Protection Office under the 2000 Internal Rules of Detention to have free access to all rooms in detention centres;

...

49. The Committee is concerned that:

...

(c) Isolated cases of ill-treatment of detainees by officials still occur in police stations. Although violence, including sexual violence, between prisoners in detention facilities and between patients in psychiatric facilities has diminished, the high risk of such incidents still remains. Conditions in old police detention centres are still of concern;

(d) The point at which a suspect or detainee can obtain access to a doctor of choice - assuming one is available at all - is not clear. In any event, there are legal exceptions to the right to have access to a lawyer and to “a person of choice” that could be abused by police. In general, no precise time frame is set for the exercise of the rights of persons detained in police custody;

...

(f) Persons of Russian nationality and stateless persons (overlapping categories) are overrepresented in the population of convicted prisoners;

(g) No specific body seems to be in charge of collecting data in detention facilities, whether police stations, prisons, or psychiatric facilities.

50. The Committee recommends that the State party:

...

(b) Ensure that law enforcement, judicial, medical and other personnel who are involved in the custody, detention, interrogation and treatment of detainees or psychiatric patients are trained with regard to the prohibition of torture and that their recertification includes both verification of their awareness of the Convention’s requirements and a review of their records in treating detainees or patients. Training should include developing the skills needed to recognize the *sequelae* of torture;

(c) Ensure close monitoring of inter-prisoner and inter-patient violence, including sexual violence, in detention and psychiatric facilities, with a view to preventing them;

(d) Continue the renovation of all detention facilities in order to ensure that they conform

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to international standards;

(e) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and ensure that, in law as well as in practice, persons in police custody and in remand have the right of access to a medical doctor of their choice, the right to notify a person of their choice of their detention and access to legal counsel. Legal exceptions to these rights should be narrowly defined. Persons deprived of their liberty, including suspects, should immediately be informed of their rights in a language that they understand. The right of criminal suspects to have a defence counsel should be extended to witnesses and to persons who have not yet been charged. The State party should introduce a precise chronology that would specify at what point the rights of all detainees may be exercised and must be respected;

(f) Elaborate a code of conduct for police officers, investigators and all other personnel involved in the custody of detainees;

...

(h) Fully examine and report on the reasons for the overrepresentation of persons of Russian nationality and stateless persons in the population of convicted prisoners;

...

(j) Create a mechanism for the collection and analysis of data on matters relating to the Convention in detention and psychiatric facilities;

...

- Spain, CAT, A/58/44 (2002) 29 at paras. 58, 62, 63 and 66.

58. The Committee...notes with satisfaction:

...

(b) The adoption of measures to protect the rights of detainees, such as the preparation of the *Standards Handbook for Judicial Police Proceedings* and its distribution to members of the State security and police forces and to judges and prosecutors. The *Handbook* lays down rules governing acts by officials, particularly in cases which entail specific restrictions on rights and freedoms;

...

(e) Progress in modernizing the prison system, with the building of 13 new prisons with a capacity of more than 14,000 inmates;

(f) Reduction in numbers of prison inmates awaiting sentencing;

...

62. The Committee continues to be deeply concerned at the fact that *incommunicado* detention up to a maximum of five days has been maintained for specific categories of particularly serious offences. During this period, the detainee has no access to a lawyer or

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to a doctor of his choice nor is he able to notify his family. Although the State party explains that *incommunicado* detention does not involve the complete isolation of the detainee, who has access to an officially appointed lawyer and a forensic physician, the Committee considers that the *incommunicado* regime, regardless of the legal safeguards for its application, facilitates the commission of acts of torture and ill-treatment.

63. The Committee also expresses its concern at the following:

(a) The substantial delays attending legal investigations into complaints of torture, which may lead to convicted persons being pardoned or not serving their sentences owing to the length of time since the offence was committed. This further delays the realization of the rights of victims to moral and material compensation;

...

(d) The severe conditions of imprisonment of some of the prisoners whose names appear on the list of inmates under close observation (FIES). According to information received, prisoners under level one of the close observation regime have to remain in their cells for most of the day, and in some cases are allowed only two hours in the yard, are excluded from group, sports and work activities, and are subjected to extreme security measures. Generally speaking, it would seem that the physical conditions of imprisonment of these prisoners are at variance with prison methods aimed at their rehabilitation and could be considered prohibited treatment under article 16 of the Convention.

...

66. The Committee invites the State party to consider precautionary measures to be used in cases of *incommunicado* detention, such as:

(a) A general practice of video recording of police interrogations with a view to protecting both the detainee and the officials, who could be wrongly accused of torture or ill-treatment. The recordings must be made available to the judge under whose jurisdiction the detainee is placed. Failure to do this would prevent any other statement attributed to the detainee from being considered as evidence;

(b) A joint examination by a forensic physician and a physician chosen by the detainee held *incommunicado*.

- Venezuela, CAT, A/58/44 (2002) 32 at paras. 76, 80 and 81.

76. The Committee welcomes with satisfaction the entry into force on 30 December 1999 of the new Constitution of the Bolivarian Republic of Venezuela, which demonstrates progress in human rights. In particular, the Committee considers as positive the following

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aspects of the Constitution:

...

(f) It regulates custody safeguards appropriately, e.g. a prior court order is required for any arrest or detention, except in flagrante delicto; it establishes a period of 48 hours for bringing a detainee before a judicial authority, as the Code of Criminal Procedure already provides; it regards as the general rule that persons charged should remain at liberty and pre-trial custody as the exception;

(g) It stipulates a series of safeguards for the detainee, such as access to a lawyer immediately on being detained and a ban on obtaining confessions by torture;

...

80. The Committee expresses its concern at the following:

...

(g) The numerous instances in prisons of prisoner-on-prisoner violence and violence against prisoners by prison officers, which have led to serious injuries and in some cases to death. The precarious material conditions in prisons are also a matter for concern;

...

81. The Committee recommends that the State party should:

...

(e) Adopt measures to improve material conditions of detention in prisons and prevent both prisoner-on-prisoner violence and violence against prisoners by prison personnel. It is also recommended that the State party strengthen independent prison inspection procedures.

- Azerbaijan, CAT, A/58/44 (2003) 36 at paras. 87-89.

87. The Committee notes the following positive developments:

...

(f) The transfer of remand centres of the Ministry of Internal Affairs to the authority of the Ministry of Justice;

...

(h) The assurances by the State party that it is taking action to reduce the incidence of tuberculosis in places of detention;

(i) The agreement concluded with the International Committee of the Red Cross, enabling ICRC representatives to have unrestricted access to convicted persons in places of detention, as well as the State party's assurance that access for non-governmental organizations to visit and examine conditions in penitentiary establishments is unlimited.

88. The Committee is concerned about:

(a) Numerous ongoing allegations of torture and ill-treatment in police facilities and

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temporary detention facilities, as well as in remand centres and in prisons;

...

(f) Reports that some persons have been held in police custody much beyond the time limit of 48 hours established in the Code of Criminal Procedure, and that in exceptional circumstances, persons can be held in temporary detention for up to 10 days in local police facilities;

(g) The lack, in many instances, of prompt and adequate access of persons in police custody or remand centres to independent counsel and a medical doctor, which is an important safeguard against torture; many persons in police custody are reportedly forced to renounce their right to a lawyer, and medical experts are provided only on the order of an official and not at the request of the detainee;

(h) The fact that, despite the recommendation of the Special Rapporteur on torture, the remand centre of the Ministry of National Security continues to operate and that it remains under the jurisdiction of the same authorities that conduct the pre-trial investigation;

...

(j) The particularly strict regime applied to prisoners serving life sentences;

(k) Reports that the ability of detained persons to lodge a complaint is unduly limited by censorship of correspondence and by the failure of the authorities to ensure the protection of the complainants from reprisals;

...

(m) The fact that no independent body with a mandate to visit and/or supervise places of detention has been established, and that access by non-governmental organizations to penitentiary facilities is impeded;

...

(o) Reports that, in many instances, judges refuse to deal with visible evidence of torture and ill-treatment of detainees and do not order independent medical examinations or return cases for further investigation.

89. The Committee recommends that the State party:

...

(b) Guarantee that, in practice, persons cannot be held in initial preventive detention (police custody) longer than 48 hours, and eliminate the possibility of holding persons in temporary detention in local police facilities for a period of up to 10 days;

(c) Clearly instruct police officers, investigative authorities and remand centre personnel that they must respect the right of detained persons to obtain access to a lawyer immediately following detention and a medical doctor on the request of the detainee, and not only after the written consent of detaining authorities has been obtained. The State party should ensure the full independence of medical experts;

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(d) Transfer the remand centre of the Ministry of National Security to the authority of the Ministry of Justice, or discontinue its use;

...

(j) Intensify efforts to educate and train police, prison staff, law enforcement personnel, judges and doctors on their obligations to protect from torture and ill-treatment all individuals who are in State custody. It is particularly important to train medical personnel to detect signs of torture or ill-treatment and to document such acts;

(k) Ensure the right of detainees to lodge a complaint by ensuring their access to an independent lawyer, by reviewing rules on censorship of correspondence and by guaranteeing in practice that complainants will be free from reprisals;

(l) Review the treatment of persons serving life sentences to ensure that it is in accordance with the Convention;

(m) Institute a system of regular and independent inspections of all places of detention and facilitate in practice, including by issuing instructions to appropriate authorities, access by non-governmental organizations to these places of detention;

...

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

98. The Committee is concerned about the following:

(a) The numerous, ongoing and consistent allegations of acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel in police stations and prisons;

...

(i) The unwarranted protraction of the pre-trial detention period during which detainees are more likely to be subjected to torture and other ill-treatment;

(j) The use of *incommunicado* detention for 48 hours, at least, before a person is brought before a judge, during which the detainee has no access to legal counsel or to his/her relatives. Furthermore, recent legal amendments allow the police to extend this period;

(k) The lack of access by detainees in general to legal counsel and a medical doctor of their choice;

(l) The overcrowding and poor conditions in prisons, as well as alleged cases of ill-treatment of prisoners, and the difficulties faced by international organizations, NGOs and family members in gaining access to prisoners.

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99. The Committee recommends that the State party:

...

(h) Undertake all necessary measures to guarantee to any person deprived of his or her liberty the right of defence and, consequently, the right to be assisted by a lawyer, if necessary at the State's expense;

(i) Take urgent measures to improve conditions of detention in police stations and prisons. It should, moreover, increase 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. In this connection, the State party should consider signing and ratifying the Optional Protocol to the Convention;

...

- Iceland, CAT, A/58/44 (2003) 43 at paras. 105, 108 and 110.

105. The Committee notes with satisfaction that remand prisoners who are kept in solitary confinement have the right to have the decision to so confine them reviewed by a court and that they must be informed of the existence of this right.

...

108. The Committee is...concerned at the problem of inter-prisoner violence (in Litla Hraun State Prison) which has created fear among certain categories of prisoners, leading, *inter alia*, to requests to be placed voluntarily in solitary confinement.

...

110. The Committee...recommends that:

(a) Doctors who are in contact with persons subjected to any form of arrest, detention or imprisonment be trained to recognize the *sequelae* of torture and in the rehabilitation of victims of torture or maltreatment;

(b) The State party continue to address issues of inter-prisoner violence by actively monitoring such violence and ensuring that prison staff are trained and able to intervene appropriately;

...

- Slovenia, CAT, A/58/44 (2003) 44 at paras. 114-116.

114. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation so as to strengthen human rights in Slovenia. In particular, the Committee welcomes:

...

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(b) The decision of the Supreme Court adopted in December 2000, which limits the duration of remand in custody to two years;

...

115. The Committee expresses concern about the following:

...

(e) There is no adequate legal guarantee of the right of persons deprived of liberty to have access to a doctor of their choice from the outset of their custody. The Committee notes article 74 of the Rules on Police Powers that makes provision for medical assistance, but considers that this is not sufficient as a safeguard against ill-treatment and torture;

...

(g) Overcrowding in prisons and other places of detention continues, despite the slight decrease noted in 2002.

116. The Committee recommends that the State party:

...

(e) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and ensure that, in law as well as in practice, all persons deprived of their liberty are guaranteed the right to have access to an independent doctor. Privacy of medical examinations should be ensured;

(f) Continue efforts to address overcrowding in prisons and other places of detention in accordance with, *inter alia*, the recommendation in this respect made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its report on Slovenia (CPT/Inf(2002)36);

...

- Turkey, CAT, A/58/44 (2003) 46 at paras. 120, 121 and 123.

120. The Committee welcomes the following positive aspects:

...

(c) The constitutional and legal reforms intended to strengthen the rule of law and to bring the legislation into line with the Convention, including the reduction of periods of detention in police custody; the elimination of the requirement to obtain administrative permission to prosecute a civil servant or public official; and the decrease in the number of crimes under the jurisdiction of State Security Courts;

...

(e) The establishment of Prison Monitoring Boards that include the participation of members of non-governmental organizations in their individual capacity, with a mandate to carry out inspections in penal institutions;

...

121. The Committee expresses concern about:

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(a) Numerous and consistent allegations that torture and other cruel, inhuman or degrading treatment of detainees held in police custody are apparently still widespread in Turkey;

(b) The failure by police always to comply with the safeguards concerning the registration of detainees;

(c) Allegations that persons in police custody have been denied prompt and adequate access to legal and medical assistance and that family members have not been promptly notified of their detention;

...

(f) The alarming problems in prisons as a result of the introduction of the so-called “F-type prisons” which have led to hunger strikes causing the deaths of more than 60 inmates;

...

123. The Committee recommends that the State party:

(a) Ensure that detainees, including those held for offences under the jurisdiction of State Security Courts, benefit fully in practice from the available safeguards against ill-treatment and torture, particularly by guaranteeing their right to medical and legal assistance and to contact with their families;

...

(d) Ensure that ongoing inspections of prisons and places of detention by judges, prosecutors or other independent bodies (such as prison monitoring boards) continue to take place at regular intervals and that appropriate action is taken by the responsible authorities in response to the inspection reports and recommendations;

(e) Guarantee that the detention records of detainees in police custody are properly kept from the outset of the custody period, including for the times they are removed from their cells, and that such records are made accessible to their families and lawyers;

(f) Solve the current problems in prisons generated by the introduction of “F-type prisons” by implementing the recommendations of CPT and by entering into serious dialogue with those inmates continuing hunger strikes;

...

- Belgium, CAT, A/58/44 (2003) 49 at paras. 128, 129 and 131.

128. The Committee notes with satisfaction the following elements:

...

(e) The repeal in 1999 of article 53 of the Act of 8 April 1965 allowing minors to be placed in detention centres for a period of not more than 15 days, and the efforts being made by the Flemish and French communities to solve problems of overcrowding in specialized

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establishments for juvenile delinquents.

129. The Committee is concerned about:

...

(h) The lack of legislation on the rights of persons under judicial or administrative arrest to have access to a lawyer, to inform their family of their detention, to be clearly informed of their rights and to be examined by a doctor of their choice;

(i) The lack of an exhaustive list of disciplinary offences in prisons and of any effective remedy for detainees against disciplinary decisions taken against them;

(j) Prison violence;

(k) Information on the lack of access to medical care in prisons, including psychiatric and psychological care, particularly as a result of the lack of qualified and available staff;

(l) The possibility of ordering the isolation of juvenile delinquents aged 12 years and over, for up to 17 days;

(m) The poor functioning of the administrative commissions, which are internal prison monitoring bodies;

(n) The lack of training for prison administrative staff, including medical staff, in particular on the prohibition of torture and inhuman or degrading treatment, owing especially to the lack of resources earmarked for that purpose;

...

131. The Committee recommends that the State party:

...

(g) Expressly guarantee in national legislation the right of all persons who are judicially or administratively detained to have access to a lawyer and a doctor of their choice immediately following their arrest, to be informed of their rights in a language they understand and to inform their families promptly of their detention;

(h) Urgently modernize its prison law, particularly by defining the legal status of detainees, explaining the prison disciplinary regime and guaranteeing the right of detainees to institute proceedings and obtain effective remedies against unwarranted disciplinary penalties through an independent and promptly accessible body;

(i) Combat prison violence more effectively;

(j) Improve the system of access to health care in prisons by recruiting more qualified medical staff;

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(k) Ensure that the isolation of juvenile delinquents is imposed only in entirely exceptional cases, and for a limited period;

(l) Improve the system of prison supervision by ensuring the prompt replacement of the administrative commissions by more effective bodies, as planned, and by considering the possibility of allowing non-governmental organizations to visit prisons regularly and meet detainees;

(m) Guarantee the training of prison administrative staff, including medical staff, in the prohibition of torture and inhuman or degrading treatment;

...

- Republic of Moldova, CAT, A/58/44 (2003) 53 at paras. 137-139.

137. The Committee welcomes the following positive aspects:

(a) The indications given by the State party's delegation that the new Criminal Code will provide a legal framework for more humane treatment of detainees;

...

(c) The efforts of the Moldovan authorities to improve prison conditions, *inter alia* by removing 89 per cent of the metal shutters which covered cell windows in remand prisons, increasing efforts regarding the treatment of tuberculosis patients and increasing employment offers for detainees;

....

138. The Committee expresses concern about:

(a) The numerous and consistent allegations of acts of torture and other cruel, inhuman or degrading treatment or punishment of detainees in police custody;

(b) The reported lack of prompt and adequate access by persons in police custody to legal and medical assistance, and to family members;

...

(d) Administrative police detention in temporary holding facilities under the jurisdiction of the Ministry of the Interior;

...

(g) The lack of judicial supervision of temporary holding facilities that are under the jurisdiction of the Ministry of the Interior;

...

(l) The poor material conditions prevailing in police detention facilities and prisons and the lack of independent inspections of such places. The Committee expresses particular concern at reports alleging that juveniles are in some cases held together with adults where they lack

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education and meaningful activities;

...

139. The Committee recommends that the State party:

(a) Ensure that the fundamental safeguards against torture and ill-treatment of detainees, including those held for administrative offences, are available in practice, including their right to medical assistance and legal counsel and to contact with their families from the earliest stages of their detention;

...

(d) Discontinue the practice of administrative police detention;

...

(i) Transfer the responsibility of detained persons in temporary holding facilities from the Ministry of the Interior to the Ministry of Justice;

(j) Issue directives on the proper conduct of interrogations of persons in police custody, including the total prohibition of ill-treatment and torture;

(k) Provide an information sheet in the appropriate languages in all police stations to inform all detainees of all their rights immediately after their arrest;

(l) Improve the conditions of detention in police stations and prisons so as to bring them into conformity with article 16 of the Convention, and establish an independent and systematic system to monitor the treatment in practice of persons arrested, detained or imprisoned;

...

- Bulgaria, CAT, A/59/44 (2004) 19 at paras. 31-33.

31. The Committee notes the following positive developments:

...

(b) The issuance of instruction No. I-167 of the Minister of the Interior of 23 July 2003 establishing procedures to be followed by the police upon detention of persons at the structural units of the Ministry of the Interior;

...

(d) The transfer of the investigation detention facilities to the Ministry of Justice in January 2000;

(e) The access given to non-governmental organizations, such as the Bulgarian Helsinki Committee, to visit prisons on a regular basis;

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(f) The information provided by the representative of the State party during the dialogue that 13 underground investigative detention (pre-trial) facilities were closed in April 2004 and that the State party is seeking urgent solutions for the remaining 5 underground facilities;

...

32. The Committee expresses concern about the following:

...

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

...

(d) The reported lack of prompt and adequate access by persons in custody to legal and medical assistance and to family members, and that access to free legal aid is quite limited and ineffective in practice. Furthermore, the reported inconsistencies in providing the required medical records to detainees hinder their ability to lodge complaints and seek redress;

...

(h) The extremely poor material conditions prevailing in detention facilities, in particular in investigative detention facilities, some of which are still underground or lack basic facilities for outdoor activities, where persons can be held for up to two years, and the lack of independent inspections of such places;

(i) The imposition of a particularly strict regime, notably for the first five years, upon all prisoners serving life sentences.

33. The Committee recommends that the State party:

...

(b) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-treatment and torture and pursue efforts to reduce incidents of ill-treatment by police and other public officials, and devise modalities for collecting disaggregated data and monitoring the occurrence of such acts in order to address the issue more effectively. The State party is encouraged to pursue its efforts to recruit persons of Roma origin into the police;

...

(d) Ensure that, in law as well as in practice, all persons deprived of their liberty are duly registered at the place of custody and guaranteed, and informed of, the rights to have access to counsel, to contact next of kin and to a doctor. In this respect an independent free legal aid system for detainees should be established. Strict rules on the maintenance of medical records for all detained persons should be established and rigorously adhered to;

...

(i) Take measures to improve the conditions in detention facilities, in particular the investigative detention facilities, with a view to closing the remaining five facilities that are underground, and ensure that all detention facilities provide at least minimal outdoor exercise for detainees;

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(j) Ensure close monitoring of inter-prisoner and other violence, including sexual violence, in detention facilities and social care homes, with a view to preventing it...

(k) Review the regime of detainees serving life sentences, including those serving life sentence without possibility of parole.

- Cameroon, CAT, A/59/44 (2003) 23 at paras. 39-41, 44 and 45.

39. The Committee takes note with satisfaction of the following:

...

(d) The plan to build additional prisons in order to remedy prison overcrowding, and the collective pardon granted in November 2002 enabling 1,757 detainees to be immediately released;

(e) The assurance given by the delegation that the verification of the individual situations of detainees and appellants will eventually result in the release of the range of persons held in pre-trial detention, notably juveniles, women and sick persons;

...

40. The Committee recalls that, in 2000, it found that torture seemed to be a very widespread practice in Cameroon, and expresses concern at reports that this situation still exists. It is troubled by the sharp contradictions between consistent allegations of serious violations of the Convention and the information provided by the State party. In particular, the Committee declares serious concern about:

(a) Reports of the systematic use of torture in police and gendarmerie stations after arrest;

(b) The continued existence of extreme overcrowding in Cameroonian prisons, in which living and hygiene conditions would appear to endanger the health and lives of prisoners and are tantamount to inhuman and degrading treatment. Medical care reportedly has to be paid for, and the separation of men and women is not always ensured in practice. The Committee notes with particular concern the large number of deaths at Douala central prison since the beginning of the year (25 according to the State party, 72 according to non-governmental organizations);

...

41. The Committee notes with concern that:

...

(b) The period of police custody may, under the draft code of criminal procedure, be extended by 24 hours for every 50 kilometres of distance between the place of arrest and the place of custody;

(c) The time limits on custody are reportedly not respected in practice;

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(d) The periods of police custody under Act No. 90/054 of 19 December 1990 to combat highway robbery (15 days, renewable) and Act No. 90/047 of 19 December 1990 on states of emergency (up to 2 months, renewable) are too long;

(e) The use of registers in all places of detention has not yet been systematically organized;

(f) There is no legal provision establishing the maximum duration of pre-trial detention;

(g) The system of supervision of places of detention is not effective, responsibility for prison administration lies with the Ministry of Territorial Administration. The prison supervisory commissions have been unable to meet regularly and, according to some reports, public prosecutors and the National Committee on Human Rights and Freedoms seldom visit places of detention;

...

44. The Committee urges the State party to take all necessary measures to end the practice of torture on its territory. It recommends that the State party should:

(a) Immediately end torture in police and gendarmerie stations and prisons. It should ensure effective supervision of these places of detention, permit NGOs to visit them and give more authority to the prison supervision commissions. The National Committee on Human Rights and Freedoms and public prosecutors should pay more frequent visits to all places of detention;

(b) Immediately launch an independent investigation into the deaths at Douala central prison since the beginning of the year and bring those responsible to justice;

(c) Adopt urgent measures to reduce overcrowding in prisons. The State party should enact a law establishing the maximum duration of pre-trial detention, and consider immediately releasing offenders or suspects imprisoned for the first time for petty offences, particularly if they are under 18 years of age; such persons should not be imprisoned until the problem of prison overcrowding has been solved;

(d) Guarantee free medical care in prisons, ensure the right of prisoners to adequate food in practice, and effectively separate men and women;

...

45. The Committee further recommends that the State party should:

(a) Adopt, as a matter of great urgency, and ensure the effective implementation of a law establishing the right of all persons held in police custody, during the initial hours of detention, of access to a lawyer of their choice and an independent doctor, and to inform their relatives of their detention. The Committee remarks that any extension of detention in custody ought to be approved by a judge;

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(b) Abandon the notion, in its draft code of criminal procedure, of extending the period of police custody depending on the distance between the place of arrest and the place of custody, and ensure observance of the time limits on custody in practice;

(c) Ensure that detention in custody under the Act on states of emergency conforms to international human rights standards and is not prolonged beyond what the situation requires. The State party should abolish administrative and military custody as options;

(d) Systematically organize, as a matter of great urgency, the use of registers in all places of detention;

(e) Separate the police from the prison authorities, e.g. by transferring responsibility for prison administration to the Ministry of Justice;

...

- Chile, CAT, A/59/44 (2004) 28 at paras. 54, 56 and 57.

54. The Committee notes the following positive developments:

...

(b) The comprehensive reform of the Code of Criminal Procedure, and in particular the changes aimed at improving the protection of detainees;

...

(d) The abolition of provision for arrest on suspicion;

(e) The reduction in the period of detention in police custody to a maximum of 24 hours;

...

(i) Confirmation that non-governmental organizations are allowed regularly to visit places of detention;

...

56. The Committee expresses concern about the following:

(a) Allegations of continued ill-treatment of persons, in some cases amounting to torture, by *carabineros* (uniformed police), *policía de investigaciones* (civil police forces) and the *gendarmería* (prison guards), and reports of failure to conduct thorough and independent investigations into such complaints;

...

(h) Severe overcrowding and other inadequate conditions in places of detention and reports of failure to conduct systematic inspections of such places;

....

57. The Committee recommends that the State party should:

...

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(i) Develop training programmes on the provisions of the Convention for judges and prosecutors as well as other law enforcement officials, including programmes on the prohibition of torture and cruel, inhuman or degrading treatment, for military officials, police, and other law enforcement personnel and others who may be involved in the custody, interrogation or treatment of persons at risk of torture; ensure that training programmes for medical specialists specifically deal with the identification and documentation of torture;

(j) Improve conditions in places of deprivation of liberty to meet international standards and take urgent measures to address overcrowding in prisons and other places of detention; introduce a system for monitoring the conditions of detention, the treatment of inmates and prisoner-on-prisoner and sexual violence in prisons;

...

- Colombia, CAT, A/59/44 (2003) 33 at paras. 67-69.

67. The Committee expresses its concern that measures adopted or being adopted by the State party against terrorism and illegal armed groups could encourage the practice of torture. In this regard the Committee expresses its concern, in particular, at:

...

(b) Constitutional reform bill No. 223/2003, which, if adopted, would seem to confer judicial powers on the armed forces and enable persons to be detained and questioned for up to 36 hours without being brought before a judge.

68. The Committee also expresses its concern at:

...

(c) The judicial reform bill, should it be approved, would reportedly provide for constitutional limitation of *amparo* proceedings and reduce the powers of the Constitutional Court, particularly with respect to the review of declarations of states of emergency. Similarly, the Committee expresses its concern at the "alternative penalties" bill, which, if approved, would, even if they had committed torture or other serious breaches of international humanitarian law, grant conditional suspension of their sentences to members of armed groups who voluntarily laid down their arms;

...

(f) The overcrowding and poor conditions in penal establishments, which could be considered inhuman or degrading treatment;

(g) The absence of information on the application of article 11 of the Convention as regards the State party's arrangements for the custody and treatment of persons subjected to arrest, detention or imprisonment, and the reports received by the Committee to the effect that the State party is failing to discharge its obligations in this respect;

...

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69. The Committee recommends that the State party take all necessary measures to prevent the acts of torture and ill-treatment that are being committed in its territory, and in particular that it:

...

(b) Reconsider...in the light of its obligation to prevent torture and ill-treatment under the Convention:

...

(iii) The judicial reform bill, so as to provide full protection for *amparo* proceedings and respect and promote the role of the Constitutional Court in defending the rule of law;

...

(i) Take effective measures to improve conditions in places of detention and to reduce overcrowding there;

(j) Ensure, so as to preclude all instances of torture or cruel, inhuman or degrading punishment, that persons subjected to any form of arrest, detention or imprisonment are treated according to international standards;

...

- Croatia, CAT, A/59/44 (2004) 38 at paras. 72 and 75.

72. The Committee notes with satisfaction the ongoing efforts by the State party to reform its legislation in order to ensure better protection of human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, namely:

...

(d) The entry into force in 2001 of the Law on the Execution of Penalties of Imprisonment which regulates the treatment and the rights of inmates.

...

75. The Committee also takes note with satisfaction of the assurances given by the State party's representative that each prison inmate is given a minimum of 4 m² of living space.

- Czech Republic, CAT, A/59/44 (2004) 42 at paras. 85-87.

85. The Committee welcomes the ongoing efforts by the State party to revise its legislation in order to safeguard human rights in general and, more specifically, those related to the implementation of the Convention against Torture. The Committee welcomes in particular:

...

(b) The amendment to the Act on Serving Prison Terms (Act No. 52/2004 Coll.), and certain related acts, which define conditions in prison in accordance with the standards required and

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offer greater protection to detainees;

(c) The Law on Probation and Mediation and the creation of a Probation and Mediation Service (Act No. 257/2000 Coll.), resulting, *inter alia*, in the decrease in the number of prisoners;

...

86. The Committee expresses concern about the following:

...

(b) The lack of explicit legal guarantees of the rights of all persons deprived of liberty to have access to a lawyer, and to notify their next of kin from the very outset of their custody;

(c) The fact that minors are not kept separately from adults in all situations of detention;

(d) The fact that remand prisoners and those serving life sentences cannot work and are left idle without adequate activities;

(e) The occurrence of inter-prisoner violence and the lack of statistical data that may provide a breakdown by relevant indicators to facilitate determination of the root causes and the design of strategies to prevent and reduce such occurrences;

(f) Medical consultations may not always be confidential and the decision to resort to restraints is not always covered by the law or regularly reviewed;

(g) The current system under which inmates are required to cover a portion of the expenses related to their imprisonment;

...

87. The Committee recommends that the State party:

...

(d) Strengthen safeguards provided in the Code of Criminal Procedure against ill-treatment and torture, and ensure that, in law as well as in practice, all persons deprived of their liberty be guaranteed, and systematically informed of, their right to a lawyer and to notify their next of kin;

(e) Ensure that persons under 18 years of age are detained separately from adults in all circumstances;

(f) Consider modalities of creating additional activities for all detainees with a view to encouraging them to occupy themselves, thus reducing the amount of time spent in idleness;

(g) Monitor and document incidents of inter-prisoner violence with a view to revealing the root causes and designing appropriate prevention strategies...

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(h) Ensure that medical examinations are confidential and consider possibilities of transferring the medical services from the Ministry of Justice to the Ministry of Health;

(i) Reconsider the arrangements whereby prisoners are required to cover a portion of their expenses, with a view to abolishing this requirement completely;

...

- Latvia, CAT, A/59/44 (2003) 48 at paras. 98, 100 and 101.

98. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Latvia. In particular, the Committee welcomes the following:

(a) Legislative measures:

...

(iv) The entry into force of the new Immigration Law in May 2003 which, *inter alia*, provides a maximum length of detention for foreigners arrested in violation of the Law and the right of an arrested foreigner to submit a complaint to a prosecutor, to contact the consulate and to have access to legal aid;

(v) The entry into force of the new Criminal Law, which introduced the concept of progressive execution of sanctions and established alternative sanctions, with a view to reducing the problem of overcrowding in prisons;

(vi) The draft new Criminal Procedure Law that aims at simplifying the legal proceedings and would, *inter alia*, decrease the time for bringing a suspect before a judge from 72 to 48 hours;

(vii) The draft new Amnesty Law, providing either for the release or the reduction of the term of imprisonment of those groups at risk, such as minors, pregnant women, women with infant children, disabled persons and the elderly;

(b) Administrative measures:

(i) The adoption in 2002 of the Regulation on the Internal Rules of the Remand Prisons, setting standards for conditions of detention and basic rights and obligations of detainees;

(ii) The transfer, as of November 2003, of all Latvian prisons under the surveillance of trained professional guards;

(iii) The setting up of training programmes, in accordance with article 10 of the

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Convention, for law enforcement and judicial personnel.

...

100. The Committee expresses concern about the following:

(a) Allegations of serious ill-treatment of persons which in some cases could be considered as amounting to torture, by members of the police, especially at the time of apprehension and interrogation of suspects;

...

(c) The conditions of detention in places of deprivation of liberty, especially police stations and short-term detention isolators;

(d) The length of legal proceedings and the excessive periods of pre-trial detention, especially in short-term detention isolators;

...

(f) The overcrowding in prisons and other places of detention, taking into account, *inter alia*, the potential risk of this situation for the spread of contagious diseases;

(g) The fact that although the draft new Criminal Procedure Law has addressed many of the existing shortcomings, the Criminal Procedure Law currently in force does not include the right of a detainee to contact family members. Concern is also expressed about the information that access to a doctor of choice is subject to the approval of the authorities;

(h) Allegations that in many cases, even where so provided by law, access to a lawyer is denied or delayed in practice to persons in police custody, and that defendants have to pay back the costs of legal aid if their case is lost;

...

101. The Committee recommends that the State party:

(a) Take all appropriate measures to prevent acts of ill-treatment by members of the police and ensure that all allegations of ill-treatment are investigated promptly and impartially;

(b) Improve conditions in places of deprivation of liberty, especially police stations and short-term detention isolators, and ensure that they conform to international standards;

(c) Guarantee that detainees in police custody have the right to contact their families and have access to a medical doctor of their choice and to legal counsel from the outset of their deprivation of liberty;

(d) Take all appropriate steps to shorten the length of legal proceedings and the current pre-trial detention period;

...

(f) Continue to take measures to address overcrowding in prisons and other places of

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detention;

...

(h) Ensure that the draft code of conduct for police interrogation ("Police Ethics Code") is speedily adopted;

...

- Lithuania, CAT, A/59/44 (2003) 52 at paras. 108-110.

108. The Committee welcomes the ongoing efforts by the State party to reform its legal system and revise its legislation in order to safeguard fundamental human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, including:

(a) The adoption of a new Criminal Code and Code of Criminal Procedure which prohibit the use of violence, intimidation, degrading treatment or treatment impairing a person's health, and a Code of Enforcement of Punishments, all of which entered into force on 1 May 2003;

...

(k) The steps initiated to reduce overcrowding by, *inter alia*, introducing a crime of misdemeanour which prescribes non-custodial punishments.

109. The Committee expresses concern about the following:

...

(c) Allegations of ill-treatment of persons in custody that may amount to torture, particularly any that may take place during police interviews;

...

(e) The large increase in complaints about the treatment of prisoners by the police (largely due to the State's own positive efforts to make the complaint process more confidential) and that, according to the State party, almost half of such complaints have been upheld. The Committee is further concerned that investigations into allegations against police officers are not conducted by a body independent of the police;

(f) Reports that some State-appointed lawyers have shown little interest in how their clients who are detained are treated;

...

(h) That conditions in places of detention are poor, as acknowledged by the State party, and that some prisoners "live in fear" of inter-prisoner violence, as noted by the European Committee to Prevent Torture;

...

110. The Committee recommends that the State party:

...

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(c) Take all appropriate measures to prevent acts of torture and ill-treatment by, *inter alia*:

(i) Ensuring that health-care personnel are trained to identify signs of physical and psychological torture;

(ii) Emphasizing the importance of training prison officials to develop good communication skills between themselves and with detainees, as a measure to reduce the resort to prohibited physical coercion, and to reduce inter-prisoner violence;

(iii) Taking other appropriate measures to prevent acts of ill-treatment by members of the police, and establish a fully independent and impartial investigation system;

(d) Ensure in practice that the public prosecutor's actions are monitored to ensure that any persons who allege ill-treatment or torture or who require medical examination are permitted by the public prosecutor to receive such examinations at their request and not only at the order of an official;

...

(h) Continue efforts to provide an effective legal aid system by, *inter alia*, public financing of defence counsel offices, providing adequate remuneration, and involving the Bar Association in coordinating appointments;

...

- Monaco, CAT, A/59/44 (2004) 56 at paras. 117 and 118.

117. The Committee expresses concern about:

...

(e) The fact that persons in custody are not entitled to the assistance of counsel, there being no provision for such assistance until they first appear before the investigating magistrate, and can inform their next of kin that they have been detained only with the magistrate's authorization;

(f) The lack of explicit provisions requiring a register of individuals held in police premises, even if such registers are actually kept;

(g) The absence of any mechanism to monitor physical prison conditions and how prisoners are treated in French penitentiary establishments.

118. The Committee recommends that the State party:

...

(d) Guarantee the right of individuals in detention to have access to a lawyer of their choosing and inform their next of kin within the first few hours of being detained;

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(e) Adopt regulations requiring the use of registers in police premises in conformity with the relevant international agreements, particularly the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;

(f) Monitor physical prison conditions and how prisoners are treated in French penitentiary establishments;

...

- Morocco, CAT, A/59/44 (2003) 58 at paras. 125-127.

125. The Committee takes note of the following positive new developments:

...

(b) ...[T]he establishment of the Mohamed VI Foundation for the reintegration of prisoners, which is presided over by the King himself; the establishment of the Human Rights Documentation, Information and Training Centre; the prison reform, including the adoption of measures to assist persons subjected to any form of detention or imprisonment, notably juveniles in the child protection centres, and the implementation of measures to ensure medical care and training for detainees and prisoners;

...

(e) The unlimited access to detainees and prisoners accorded to independent local NGOs;

...

126. The Committee expresses concern about:

...

(b) The considerable extension of the time limit for police custody, the period during which the risk of torture is greatest, both in criminal law and in anti-terrorist legislation, which has been effected subsequent to the consideration of the second periodic report;

(c) The non-existence, during the period of police custody, of guarantees of rapid and appropriate access by persons in custody to a lawyer and a doctor, and to a relative;

(d) The increase, according to some information, in the number of arrests for political reasons during the period under consideration, the increase in the number of detainees and prisoners in general, including political prisoners, and the increase in the number of allegations of torture and cruel, inhuman or degrading treatment or punishment, allegations implicating the National Surveillance Directorate (DST);

...

(h) The number of fatalities in prisons;

(i) Prison overcrowding, and the allegations of beatings and violence between prisoners.

127. The Committee recommends that the State party:

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...

(c) Limit the period of police custody to a strict minimum and guarantee the right of persons in police custody to rapid access to a lawyer, a doctor and a relative;

...

(g) Inform the Committee of the outcome of impartial inquiries into all deaths in police custody, detention or prison, in particular deaths alleged to be the result of torture;

...

- New Zealand, CAT, A/59/44 (2004) 61 at paras. 134 and 135.

134. The Committee expresses concern about:

...

(d) Cases of prolonged non-voluntary segregation in detention (solitary confinement), the strict conditions of which may amount, in certain circumstances, to acts prohibited by article 16 of the Convention;

(e) The low age of criminal responsibility, and the fact that juveniles are sometimes not separated from adult detainees and have been detained in police cells, owing to a shortage of Child, Youth and Family Residential Facilities;

(f) The findings of the Ombudsman regarding investigations of alleged assaults by prison staff on inmates, in particular the reluctance to address such allegations promptly and the quality, impartiality and credibility of investigations.

135. The Committee recommends that the State party:

...

(d) Reduce the time and improve the conditions of non-voluntary segregation (solitary confinement) which can be imposed on asylum-seekers, prisoners and other detainees;

(e) Implement the recommendations made by the Committee on the Rights of the Child (CRC/C/15/Add.216, paras. 30 and 50);

(f) Report on the results of the development strategy aimed at ensuring that minors are not subjected to unreasonable searches;

...

(h) Inform the Committee about the results of the action taken in response to the concern expressed by the Ombudsman regarding investigations of assaults by prison staff on inmates.

- Yemen, CAT, A/59/44 (2003) 64 at paras. 143, 145 and 146.

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143. The Committee welcomes the ongoing efforts of the State party to reform its legal system, revise its legislation and uphold democratic values, in particular:

...

(g) The assurances received from the delegation that it intends to establish special institutions ("half-way houses") to receive vulnerable women leaving prison;

(h) The access accorded to the International Committee of the Red Cross to persons held by the Political Security Department.

...

145. The Committee expresses concern about the following:

...

(b) The nature of some criminal sanctions, in particular flogging and amputation of limbs, which may be in breach of the Convention;

(c) Reports of the frequent practice of *incommunicado* detention by Political Security Department officials, including occurrences of mass arrests and detention for prolonged periods without judicial process;

(d) The failure in practice to enable detained persons to obtain access to a lawyer, a doctor of their choice or relatives from the outset of their detention;

...

(h) The situation of women who have served their prison sentences but who remain in prison for prolonged periods;

(i) The Committee is concerned at the low minimum age of criminal responsibility and at the detention of child offenders as young as 7 years in specialized hospitals or social protection institutions.

146. The Committee recommends that the State party:

...

(c) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, at all stages of detention and that detainees held by the Political Security Department are given prompt access to judges;

(d) Take all appropriate measures to abolish *de facto incommunicado* detention;

(e) Take immediate steps to ensure that arrests and detentions are carried out under independent and impartial judicial supervision;

...

(k) Continue and expand efforts to establish "half-way homes" for women in order to avoid their remaining in prison beyond the expiration of their sentence;

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(l) Review the minimum age of criminal responsibility and ensure that all protective institutions and other places of detention meet international juvenile justice standards, including those of the Convention;

...

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

34. The Committee expresses its concern at the following:

...

(f) The reports of arrests and detention of children below the age of criminal responsibility, most of them “street children” and beggars, in police stations, where they are held together with adults, as well as on the alleged torture and ill-treatment suffered by such children, leading to death in some cases;

...

(h) The overcrowding and poor physical conditions prevailing in the prisons, and particularly the lack of hygiene, adequate food and appropriate medical care, which may be tantamount to inhuman and degrading treatment;

(i) The high number of persons being held in pre-trial detention, which according to the State party is as high as 78 per cent in the Buenos Aires prison system;

(j) The failure to apply the principle of separation between convicted prisoners and remand prisoners in detention centres, and between them and immigrants who have been served with expulsion orders;

...

(l) Humiliation and degrading treatment during body searches of persons visiting prisons;

(m) The fact that medical staff in prisons are not independent but are members of the prison service.

35. The Committee recommends that the State party take all necessary steps to prevent acts of torture and ill-treatment in the territory of the State of Argentina, and in particular that it:

...

(g) As promised by the delegation of the State party in the case of the province of Buenos Aires, guarantee that the holding of minors in police units will be immediately banned, that minors currently in police units will be transferred to special centres, and that a nationwide ban will be imposed on the detention of minors by police personnel on “welfare grounds”;

(h) Take effective steps to improve physical conditions in prisons, reduce the existing overcrowding and properly guarantee the fundamental needs of all persons in custody;

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(i) Consider amending its legislation and practice relating to pre-trial detention, so that such detention is imposed only as an exceptional measure, taking into account the recommendations on alternatives to pre-trial detention adopted by the Working Group on Arbitrary Detention in December 2003;

(j) Take the necessary steps to guarantee the principle of separation between convicted prisoners and remand prisoners, and between them and immigrants who have been served with expulsion orders in detention centres;

...

(l) Take appropriate steps to guarantee full respect for the dignity and human rights of all persons during body searches, in full compliance with international standards;

(m) Take the necessary steps to guarantee the presence of independent, qualified medical personnel to carry out periodic examinations of persons in detention;

...

(o) Establish national prevention machinery with authority to make periodic visits to federal and provincial detention centres for the purpose of fully implementing the Optional Protocol to the Convention;

(p) Establish and promote effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and psychological and medical assistance to victims;

...

- United Kingdom of Great Britain and Northern Ireland (Crown Dependencies and Overseas Territories), CAT, A/60/44 (2004) 16 at paras. 39 and 40.

39. The Committee expresses its concern at:

...

(b) The State party's limited acceptance of the applicability of the Convention to the actions of its forces abroad, in particular its explanation that "those parts of the Convention which are applicable only in respect of territory under the jurisdiction of a State party cannot be applicable in relation to actions of the United Kingdom in Afghanistan and Iraq"; the Committee observes that the Convention protections extend to all territories under the jurisdiction of a State party and considers that this principle includes all areas under the *de facto* effective control of the State party's authorities;

...

(e) The State party's resort to potentially indefinite detention under the Anti-terrorism, Crime and Security Act 2001 of foreign nationals suspected of involvement in international terrorism and the strict regime applied in Belmarsh prison;

...

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(g) Reports of unsatisfactory conditions in the State party's detention facilities including substantial numbers of deaths in custody, inter-prisoner violence, overcrowding and continued use of "slopping out" sanitation facilities, as well as reports of unacceptable conditions for female detainees in the Hydebank Wood prison, including a lack of gender-sensitive facilities, policies, guarding and medical aid, with male guards alleged to constitute 80 per cent of guarding staff and incidents of inappropriate threats and incidents affecting female detainees;

...

40. The Committee recommends that:

...

(e) The State party should apply articles 2 and/or 3 of the Convention, as appropriate, to transfers of a detainee within a State party's custody to the custody whether *de facto* or *de jure* of any other State;

...

(g) The State party should re-examine its review processes, with a view to strengthening independent periodic assessment of the ongoing justification for emergency provisions of both the Anti-terrorism, Crime and Security Act 2001 and the Terrorism Act 2000, in view of the length of time the relevant emergency provisions have been operating, the factual realities on the ground and the relevant criteria necessary to declare a state of emergency;

(h) The State party should review, as a matter of urgency, the alternatives available to indefinite detention under the Anti-terrorism, Crime and Security Act 2001;

...

(j) The State party should ensure that the conduct of its officials, including those attending interrogations at any overseas facility, is strictly in conformity with the requirements of the Convention and that any breaches of the Convention that it becomes aware of should be investigated promptly and impartially, and if necessary the State party should file criminal proceedings in an appropriate jurisdiction;

(k) The State party should take all practicable steps to review investigations of deaths by lethal force in Northern Ireland that have remained unsolved, in a manner, as expressed by representatives of the State party, "commanding the confidence of the wider community";

(l) The State party should develop an urgent action plan, including appropriate resort to criminal sanctions, to address the subjects of concern raised by the Committee in paragraph 40, subparagraph (g) as well as take appropriate gender-sensitive measures;

...

- Greece, CAT, A/60/44 (2004) 20 at paras. 46-48.

46. The Committee notes the following positive developments:

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(a) The ongoing efforts by the State party to revise its legislation and adopt other necessary measures, so as to strengthen the respect for human rights in Greece and give effect to the Convention. In particular the Committee welcomes the following:

(i) The new Prison Code (Law 2776/99), which contains provisions intended to, *inter alia*, improve living conditions in prisons and prevent inhuman treatment of prisoners;

...

(iii) The new Law on Legal Aid (Law 3226/2004), which stipulates that lawyers must be appointed to draw up and submit complaints on behalf of torture victims and victims of trafficking, and that the prison prosecutor has the duty to offer legal counselling to detainees;

...

47. The Committee notes that many of the concerns it expressed during the consideration of the third periodic report (A/56/44, para. 87) have not been adequately addressed, and will be reiterated in the present concluding observations. Consequently, the Committee expresses its concern at:

...

(d) The slow progress in adopting a code of ethics and other measures governing the conduct of police interrogations to supplement the provisions of the Criminal Procedure Code, with a view to preventing cases of torture and ill-treatment, in accordance with article 11 of the Convention;

...

(i) The continued overcrowding and poor conditions prevailing in prisons and other detention facilities, as well as the fact that it is difficult for independent bodies with a mandate to visit places of detention to obtain access;

...

(l) The inadequate measures taken to protect children picked up by the Security Police and taken into State care during the period 1998-2003. In particular, the Committee notes that of the approximately 600 children taken to the Aghia Varvara children's institution, 500 reportedly went missing and that these cases were not promptly investigated by a judicial authority;

...

48. The Committee recommends that the State party:

...

(d) Ensure that all personnel involved in the custody, detention, interrogation and treatment of detainees are trained with regard to the prohibition of torture and ill-treatment. Training should include developing skills needed to recognize the *sequelae* of torture and sensitization with respect to contact with particularly vulnerable persons in situations of risk;

(e) Expedite the process of adopting a code of ethics and continue to consider modalities for amending interrogation rules and procedures, such as introducing audio or videotaping, with

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a view to preventing torture and ill-treatment;

...

(j) While continuing its long-term efforts to address overcrowding and poor conditions in prisons and other places of detention, including by building new prisons, consider additional alternative means of reducing the prison population as urgent measures to address the situation in places of detention;

...

(m) Review the modalities for protecting street children, in particular to ensure that those measures protect their rights. All decisions affecting children should, to the extent possible, be taken with due consideration for their views and concerns, with a view to finding an optimal, workable solution. The Committee urges the State party to take measures to prevent the recurrence of cases such as the Aghia Varvara children's institution. It should also ensure that a judicial investigation is carried out...

...

- Canada, CAT, A/60/44 (2005) 25 at paras. 56-58.

56. The Committee notes:

...

(f) The changes to Corrections policy and practice implemented to give effect to the recommendations of the Arbour Report on the treatment of female offenders in the federal prison system;

(g) The requirement that body cavity searches be carried out by medical rather than correctional staff in a non-emergency situation and after written consent and access to legal advice have been provided;

(h) The efforts made by the State party, in response to the issue of overrepresentation of indigenous offenders in the correctional system previously identified by the Committee, to develop innovative and culturally sensitive alternative criminal justice mechanisms, such as the use of healing lodges.

57. The Committee expresses its concern at:

...

(h) The still substantial number of "major violent incidents", defined by the State party as involving serious bodily harm and/or hostage-taking, in the State party's federal corrections facilities;...

...

58. The Committee recommends that:

...

(d) The State party should insist on unrestricted consular access to its nationals who are in

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detention abroad, with facility for unmonitored meetings and, if required, of appropriate medical expertise;

...

(g) The State party should take steps to ensure that the frequency of “major violent incidents” in its federal corrective facilities decreases progressively;

...

- Switzerland, CAT, A/60/44 (2005) 28 at paras. 63-65.

63. The Committee notes the following positive aspects:

(a) The ban, proposed by the draft federal law regulating the use of force by police during deportations and during the transport of detainees ordered by a federal authority, on all restraint methods which restrict breathing as well as on the use of irritant or incapacitating sprays;

...

(c) The new draft federal code of criminal procedure on the rights of persons detained in police custody that prohibits *incommunicado* detention (*mise au secret*);

...

64. The Committee expresses concern regarding the following:

...

(b) The draft federal law regulating the use of force by police during deportations and during the transport of detainees ordered by a federal authority:

(i) Authorizes the use of electro-shock instruments, including taser devices, which can sometimes be used as instruments of torture;

(ii) Does not make any provision for independent monitors to be present during the deportation;

...

65. The Committee recommends that the State party:

...

(b) Undertake efforts to encourage the successful outcome of the ongoing consultations on the draft federal law regulating the use of force by police during deportations and during the transport of detainees ordered by a federal authority regarding the ban on the use of electro-shock instruments. The State party should also ensure that independent human rights observers and/or doctors are present during all forced removals by air. It should also offer, as a routine practice, medical examinations both before forced removals by air and, in the case of abortive attempts, thereafter;

...

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- Finland, CAT, A/60/44 (2005) 32 at paras. 71-73.

71. Amongst the many positive developments, the Committee notes in particular:

...

(c) The measures taken by the State party to implement the Committee's previous recommendations concerning:

(i) Judicial supervision of the use of isolation in pre-trial detention;

...

(e) The overall reform of the system for enforcement of sentences and detention, including changes to the system of parole;

...

72. The Committee expresses concern that:

...

(d) Despite the programme of prison renovation currently under way, the practice of "slopping out", which continues in some prisons, will not be definitively halted until 2010.

73. The Committee recommends that the State party:

...

(d) Complete the process of implementing the suggestions made by the working group established to look at the situation of Roma in Finnish prisons and all other necessary measures to improve the situation and welfare of Roma prisoners;

(e) Consider means of accelerating the prison renovation programme and, in the interests of improved hygienic conditions, explore additional alternative interim solutions to the practice of "slopping out";

...

- Albania, CAT, A/60/44 (2005) 34 at paras. 81-84.

81. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Albania. In particular, the Committee welcomes the following:

(a) The adoption of a democratic Constitution in 1998 that enhances protection of human rights, including the prohibition of torture, establishes a maximum 48-hour limit on detention before which a person must be brought before a judge, and the direct applicability of ratified international treaties and their superiority over domestic laws;

...

82. ...[T]he Committee would like to commend:

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- (a) The suspension since 1992 of the death penalty;
- (b) The separation of juveniles from adults in all detention facilities;
- ...
- 83. The Committee expresses concern:
 - ...
 - (c) That a climate of *de facto* impunity prevails for law enforcement personnel who commit acts of torture or ill-treatment, in view of:
 - (i) The numerous allegations of torture and ill-treatment by law enforcement personnel, especially at the moment of arrest and during interrogation;
 - ...
 - (iii) The lack of prompt and impartial investigation of allegations of torture and ill-treatment committed by law enforcement personnel; and
 - (iv) The absence of convictions in cases of torture under article 86 of the Criminal Code, and the limited number of convictions of torture with serious consequences under article 87 of the Criminal Code, all of which may indicate that there is a lack of awareness on the part of victims of their rights and that there is a lack of confidence in the police and judicial authorities;
 - ...
 - (i) At the lack of implementation of the fundamental legal safeguards for persons detained by the police, including guaranteeing the right to inform a relative, access to a lawyer and a doctor of their own choice, the provision of information about their rights and, for juveniles, the presence of their legal guardians during interrogation;
 - (j) At the poor conditions of detention and long pre-trial detention periods of up to three years;
 - (k) At the existence of an additional 10-hour administrative detention period for interrogation before the maximum 48-hour period within which a detainee must be brought before a judge begins;
 - (l) About the lack of regular and unannounced visits to police stations by the Office of the Ombudsman;
 - (m) About the lack of systematic medical examination of detainees within 24 hours of their admission to prison, the poor medical care in detention facilities, and the lack of training for medical personnel and prison medical personnel, not under the authority of the Ministry of Public Health;
 - ...
- 84. The Committee recommends that the State party:

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...

(b) Ensure strict application of the provisions against torture and ill-treatment, criminalizing acts of torture and prosecuting and punishing perpetrators in a manner proportionate to the seriousness of the crimes committed;

(c) Investigate all allegations of ill-treatment and torture by law enforcement personnel, carrying out prompt and impartial investigations to bring the perpetrators to justice in order to eliminate the *de facto* impunity for law enforcement personnel who commit acts of torture and ill-treatment;

(d) Improve mechanisms to facilitate the submission of complaints by victims of ill-treatment and torture to public authorities, including obtaining medical evidence in support of their allegations;

...

(i) Implement the fundamental legal safeguards for persons detained by the police, guaranteeing their rights to inform a relative, to have access to a lawyer and a doctor of their own choice and to be provided with information about their rights and, for juveniles, to have their legal guardians present during interrogation;

(j) Improve conditions in places of detention, ensuring that they conform to international minimum standards, adopt necessary measures to reduce the pre-trial detention period and continue to address overcrowding in places of detention;

(k) Take the necessary measures to abolish the 10-hour administrative detention period for interrogation prior to the 48-hour period within which a suspect must be brought before a judge;

(l) Allow regular and unannounced visits to police stations by the Office of the Ombudsman, as well as by other independent bodies;

(m) Provide systematic medical examination of detainees within 24 hours of their admission to prison, improve medical care in detention facilities, establish training for medical personnel and transfer all prison medical personnel to the authority of the Ministry of Public Health;

...

(p) Transfer the responsibility for all pre-trial detainees to the authority of the Ministry of Justice;

...

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

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93. The Committee is...concerned about:

(a) The length of pre-trial detention, including detention beyond 48 hours as stipulated by article 23, clause 4, of the Constitution and the possibility of detaining treason and terrorism suspects for 360 days without bail;

(b) The reported limited accessibility and effectiveness of *habeas corpus*;

...

(d) The wide array of security forces and agencies in Uganda with the power to arrest, detain and investigate;

...

(f) The pervasive problem of sexual violence, including in places of detention and in camps for internally displaced persons;

...

97. The Committee recommends that the State party take all necessary legislative, administrative and judicial measures to prevent acts of torture and ill-treatment in its territory, and in particular that it:

...

(e) Reduce the length of pre-trial detention;

(f) Enhance the accessibility and effectiveness of *habeas corpus*;

...

(h) Minimize the number of security forces and agencies with the power to arrest, detain and investigate and ensure that the police remain the primary law enforcement agency;

(i) Abolish the use of “ungazetted” or unauthorized places of detention or “safe houses”, and immediately provide information about all places of detention;

(j) Allow independent human rights monitors, including the Uganda Human Rights Commission, full access to all official and non-official places of detention, without notice;

...

(m) Establish and promote effective machinery within the prison system to receive and investigate reports of sexual violence and provide protection and psychological and medical assistance to victims;

...

- Bahrain, CAT, A/60/44 (2005) 44 at paras. 107-109.

107. The Committee notes the following positive developments:

...

(d) The visit to Bahrain in 2001 by the Working Group on Arbitrary Detention which was

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granted unrestricted access to all prisons and police station holding cells and was able to speak freely and without witnesses to prisoners it selected at random;

...

108. The Committee expresses its concern at:

...

(c) The large number of allegations of torture and other cruel, inhuman or degrading treatment or punishment of detainees committed prior to 2001;

(d) Reports of *incommunicado* detention of detained persons following the ratification of the Convention and prior to 2001, for extended periods, particularly during pre-trial investigations;

(e) The inadequate access to external legal advice while in police custody, to medical assistance and to family members, thereby reducing the safeguards available to detainees;

...

(i) Certain provisions of the draft law on counter-terrorism which, if adopted, would reduce safeguards against torture and could re-establish conditions that characterized past abuses under the State Security Law. These provisions include, *inter alia*, the broad and vague definition of terrorism and terrorist organizations and the transfer from the judiciary to the public prosecutor of authority to arrest and detain, in particular, to extend pre-trial detention;

(j) Lack of access by independent monitors to visit and inspect all places of detention without prior notice, notwithstanding the assurances of the State party that it will allow some access by civil society organizations;

...

(p) Reports of the beating and mistreatment of prisoners during three strikes in 2003 at Jaw Prison, followed by an agreement to establish an investigative commission whose findings, however, have not been made public.

109. The Committee recommends that the State party:

...

(e) Ensure that its legal system provides victims of past acts of torture with redress and an enforceable right to fair and adequate compensation;

(f) Ensure that any measure taken to combat terrorism, including the draft law, is in accordance with Security Council resolutions which require, *inter alia*, that anti-terrorism measures be carried out with full respect for the applicable rules of, *inter alia*, international human rights law, including the Convention;

(g) Establish an independent body with a mandate to visit and/or supervise places of detention without prior notice, and allow impartial and NGOs to make visits to prisons and places where the authorities keep detainees;

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...

(j) Ensure that all detained persons have immediate access to a doctor and a lawyer, as well as contact with their families, and that detainees held by the Criminal Investigation Department are given prompt access to a judge;

...

(n) Ensure that law enforcement, civil, military and medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual deprived of his/her liberty are trained to recognize the physical consequences of torture and respect the absolute prohibition of torture;

...

CRC

- Kenya, CRC, CRC/C/111 (2001) 21 at para. 145.

145. The Committee recommends that the State party:

...

(b) Use deprivation of liberty (institutionalization) only as a measure of last resort and for the shortest possible time and, in that regard, implement the Diversion Programme fully and with the widest scope possible, as an alternative to deprivation of liberty;

(c) Ensure that children remain in contact with their families while in the juvenile justice system;

...

(e) Abolish the use of corporal punishment in the juvenile justice system;

(f) Improve the conditions in detention facilities;

(g) Strengthen reparation, rehabilitation and reintegration programmes;

...

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 353, 354, 391 and 393.

353. The Committee is deeply concerned at the living conditions of children detained in jails and prisons, which are so deplorable that they endanger their life.

354. The Committee recommends that the State party take all necessary measures to ensure that detained children are provided access to health and education services and with food, and that the conditions meet the needs of the children and are compatible with the rights under the Convention.

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...

391. [T]he Committee is deeply concerned at the poor conditions of detention, due notably to overcrowding in detention and prison facilities, overuse and long periods of pre-trial detention, the length of time before the hearing of juvenile cases, the absence of assistance towards the rehabilitation and reintegration of juveniles following judicial proceedings, and the sporadic training of judges, prosecutors and prison staff...

...

393. ...[T]he Committee recommends that the State party:

...

(c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period and limit by law the length of pre-trial detention;

...

(e) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including through addressing the problem of overcrowding in prisons and establishing special prisons for children with conditions suited to their age and needs, and in the meantime guarantee the separation of children from adults in prisons and places of pre-trial detention throughout the country;

(f) Ensure that children in conflict with the law do not receive the same sanctions as adults;

(g) Ensure that children remain in regular contact with their families while in the juvenile justice system;

(h) Introduce regular medical examination of inmates by independent medical staff;

(i) Establish an independent child-sensitive and accessible system for complaints for children;

(j) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(k) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings; and

(l) Request technical assistance in the area of juvenile justice and police training from, *inter alia*, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

See also:

- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 446 and 448.

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- Gambia, CRC, CRC/C/111 (2001) 89 at paras. 464 and 466.

464. ...[T]he Committee is deeply concerned at the possibility that a child may be sentenced to the death penalty...
...
466. ...[T]he Committee recommends that the State party:

(a) Prohibit the use of the death penalty, life imprisonment and whipping;
...
(d) Use deprivation of liberty (institutionalization) only as a measure of last resort and for the shortest possible period of time;

(e) Guarantee separation from adults in prison and in pre-trial detention places all over the country;

(f) Ensure that children remain in contact with their families while in the juvenile justice system;

(g) Abolish the use of corporal punishment within the juvenile justice system;

(h) Strengthen rehabilitation and reintegration programmes;

(i) 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 in Juvenile Justice.
- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 592 and 593.

592. The Committee is concerned about insufficient information in the area of juvenile justice, and it is particularly concerned about:

Children arrested and held in custody without being able to exercise their right to a lawyer;

Children subjected to ill-treatment and unlawful investigative methods;

The length of pre-trial detention;

Conditions in detention centres and penal colonies in Uzbekistan;

Treatment in special schools for juveniles (for example, the Special School

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for Girls No. 4, Kokand).

593. The Committee recommends that the State party:

...

(c) Ensure that children are not arbitrarily arrested, that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court and that persons under 18 are not detained with adults;

...

(e) Consider alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;

...

- Cape Verde, CRC, CRC/C/111 (2001) 135 at paras. 660 and 661.

660. The Committee is concerned that, in practice, juvenile justice standards are not applied because of severe weaknesses in the functioning of the Commission for the Protection of Minors, the absence of appropriate institutions for the implementation of some juvenile justice measures, the insufficient capacity of courts and the backlog of cases, and an overall lack of financial and human resources. The Committee is concerned, *inter alia*, by the lack of alternative measures to detention for children over 16, the incarceration of children with adults, and the fact that detained children do not receive any formal education.

661. The Committee recommends that the State party:

...

(b) Consider deprivation of liberty only as a measure of last resort, for all children up to the age of 18 and for the shortest possible period of time, limit by law the length of pre-trial detention, and ensure the availability of suitable alternatives to detention;

...

(d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by solving the problem of overcrowded prisons and establishing special facilities for children with conditions suitable to their age and needs; and in the meantime, ensure that children are separated from adults in prison and in pre-trial detention facilities;

(e) Ensure that children up to the age of 18 in conflict with the law are not treated like, and do not receive the same sanctions as adults.

(f) Ensure that children are able to remain in regular contact with their families while in the juvenile justice system;

(g) Establish an independent child-sensitive and accessible system for complaints for

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children;

(h) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(i) Establish a programme of rehabilitation and reintegration of juveniles following justice proceedings;

(j) Request technical assistance in the area of juvenile justice and police training 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.

- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 63 and 64.

63. The Committee is concerned at allegations that children as young as 15 have been subjected to torture and ill-treatment during *incommunicado* detention.

64. In light of article 37 (a) of the Convention, the Committee strongly recommends that the State party:

(a) Enforce, or, when appropriate, review existing legislation with a view to preventing children being held *incommunicado*, and investigate in an effective way reported cases of ill-treatment of children;

(b) Ensure that alleged perpetrators are transferred from active duty or suspended while they are under investigation, that they are dismissed and punished if convicted, and that court proceedings and sentences are publicized;

(c) Train law enforcement personnel on child rights issues;

(d) In the light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.

- Greece, CRC, CRC/C/114 (2002) 25 at paras. 170 and 171.

170. Noting that the State party has a system of special juvenile justice courts and that a committee was established to look into issues of concern in the criminal justice system and a new bill relating to the care of juvenile delinquents and children at risk, the Committee remains concerned:

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...

(c) At the lack of respect for juvenile justice standards with regard to arrest and detention proceedings, including the occasional detention of children with adults;

(d) At the proportionally high number of children from distinct ethnic, religious, linguistic and cultural groups involved in juvenile justice proceedings, especially involving arrest and imprisonment;

...

(f) At the large number of juveniles detained pending trial, on non-felony offences, in spite of the fact that domestic legislation prohibits such detention unless the alleged crime is one that would carry a sentence of 10 years' imprisonment or more;

(g) At delays in judicial proceedings leading to long periods of pre-trial detention;

(h) That under the law children can be given a sentence of 20 years' imprisonment;

(i) That the right of appeal is restricted to sentences of imprisonment of more than one year;

(j) At the lack of a sufficient number of probation officers in all cities and regions of the country.

171. The Committee recommends that the State party:

...

(c) Conduct juvenile justice and child rights training for, among others, police officers, detention officials, judges, social workers, psychologists and other personnel involved in the juvenile justice process;

(d) Ensure respect for all juvenile justice standards including the rights of children during arrest and detention procedures, minimum conditions of detention, the non-restricted rights of appeal and to legal representation, free interpretation where needed and other relevant assistance;

(e) Ensure that detention, including pre-trial detention, is used only as a measure of last resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention;

(f) Abolish provisions allowing for a child to be imprisoned for a period of 20 years;

(g) Increase the number of trained probation officers and other relevant professionals.

- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 207 and 208.

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207. The Committee is deeply concerned that torture is still used by law enforcement personnel during police investigation and in detention centres as mentioned in the State party's report (para. 159).

208. The Committee urges the State party to take all necessary measures:

- (a) To immediately put an end to these forms of torture or violence against children and to address their causes in order to prevent their recurrence;
- (b) To prevent cases of torture through, *inter alia*, the presence of social workers during investigations and in places of detention;
- (c) To establish an independent mechanism to investigate reports of torture and to bring to justice the persons responsible;
- (d) To adopt legislative measures for the fullest compensation and rehabilitation of child victims of torture;
- (e) To establish accessible and child-sensitive structures to receive and address complaints of children; and
- (f) To train systematically the police forces, prison staff and the judiciary on the human rights of children.

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 321 and 322.

321. The Committee is concerned that:

(a) Some laws, policies and practices in the State party's juvenile justice system are incompatible with the principles and provisions of the Convention, including articles 37, 40 and 39;

...

(d) While the illegal detention of minors and violence by the police have decreased, such incidents continue;

(e) In particular, the detention of minors persists "due to the poor training and ignorance of legal norms on the part of the policemen involved", as indicated in the State party's initial report, and that minors are incarcerated with adult detainees;

...

(g) There have been incidents of mistaken detention of children below the age of age 16.

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...

322. The Committee recommends that the State party:

...

(e) Ensure that no children are detained illegally and that, when detention is necessary as a measure of last resort, children are detained for the shortest time necessary and separately from adults;

...

(g) Implement its own recommendations, as set out in its initial report, including:

“To strengthen legal provisions and ethical procedures in order to ensure that, in cases where detention is inevitable, treatment appropriate to the age and needs of the minors involved is guaranteed, they are allowed frequent contact with their family, they have immediate access to all necessary legal assistance, and they have the freedom and right to ensure their defence” (paragraph 565 of the State party’s report);

“To strengthen training in national and international legislation on minors for all those involved in the administration of juvenile justice, as well as the managers and staff of the units where children may eventually be subject to detention measures” (para. 566);

“To establish ‘mechanisms for the physical and psychological recovery and social reintegration of children who infringe the law’” (para. 567);

“To create alternatives to detention, particularly with a view to providing the relevant assistance to which the child is entitled, as well as greater articulation with other social sectors such as social action, education and civil society organizations that are able to incorporate such children into their juvenile rehabilitation programmes” (para. 567);

“To establish mechanisms of cooperation between the authorities responsible for justice administration for minors and communities, which have the potential to support the recovery and reintegration of juvenile delinquents. There is also an urgent need to fill the vacuum by creating occupational and recreational centres as well as special services that can respond to the needs of children at risk” (para. 568).

(h) Seek technical assistance in this regard from, *inter alia*, UNICEF, OHCHR and the United Nations Office for Drug Control and Crime Prevention, through the Coordination Panel on Technical Assistance and Cooperation on Juvenile Justice.

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- Niger, CRC, CRC/C/118 (2002) 37 at paras. 195 and 197.

195. ...[T]he Committee is deeply concerned at the non-separation of children and adult in jails (with the exception of the jail in Niamey), the very poor conditions of detention, mainly due to the overcrowding in detention and prison facilities, the frequent recourse to and excessive length of pre-trial detention, the very limited rehabilitation and reintegration of juveniles following judicial proceedings and the sporadic training of judges, prosecutors and prison staff.

...

197. ...[T]he Committee particularly recommends that the State party:

...

(b) Consider deprivation of liberty only as a measure of last resort and for the shortest possible time, limit by law the length of pre-trial detention and ensure that the lawfulness of this detention is reviewed by the judge without delay and then regularly;

(c) Develop alternative measures to deprivation of liberty;

...

(f) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, in particular by establishing special prisons for children with conditions suited to their age and needs and by ensuring the provision of social services in all detention centres in the country, and, in the meantime, by guaranteeing separation of children from adults in all prisons and in pre-trial detention places throughout the country;

(g) Ensure that children remain in regular contact with their families while in the juvenile justice system;

(h) Introduce regular medical examination of children by independent medical staff;

...

- Belarus, CRC, CRC/C/118 (2002) 54 at paras. 253 and 254.

253. The Committee...expresses its concern that a comprehensive system has not yet been established, that prosecutors and lawyers are not trained to handle juvenile cases, that detention is not used as a last resort and that alternative measures to detention are seldom applied. Further, it is noted that conditions in juvenile detention centres are very poor and offer little possibility of rehabilitation.

254. The Committee recommends that the State party:

...

(d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law, and ensure that

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children are always separated from adults;

(e) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

...

(g) 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;

(h) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system;

(i) 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.

- Tunisia, CRC, CRC/C/118 (2002) 68 at paras. 301 and 302.

301. The Committee welcomes the adoption of the Child Protection Code as well as other legal provisions in the area of juvenile justice. However, the Committee is concerned at the failure of the State party to guarantee full implementation of all provisions (e.g. the fact that juvenile courts have not yet been established), in light of reports of detention and ill-treatment of children, as well as detention of juveniles with adults which has allegedly resulted in sexual abuse or other ill-treatment.

302. The Committee recommends that the State party:

...

(b) Ensure that the deprivation of liberty is used only as a measure of last resort; that children have access to legal aid and independent and effective complaints mechanisms; and that persons under 18 are not detained with adults;

(c) Treat children or juveniles in conflict with the law and children or juveniles at risk in a different and distinct manner so that they are not placed in the same institutions with the same regime or restrictions;...

...

- Switzerland, CRC, CRC/C/118 (2002) 78 at paras. 310 and 311.

310. The Committee is concerned at the reservations made by the State party to articles 5, 7, 10, 37 and the four reservations made with regard to article 40, but welcomes the

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information that the State party is considering the withdrawal of most of these reservations thanks to recent and current revisions of the Constitution and other relevant laws, following a tentative timetable presented during the dialogue. Despite this information, the Committee remains concerned at the rather slow pace of this withdrawal process and even more at the fact that some reservations may not be withdrawn at all, or only in the distant future.

311. In light of the 1993 Vienna Declaration and Programme of Action, the Committee recommends that the State party:

...

(d) Expedite the approval and enactment of the new Juvenile Penal Law in order to start as soon as possible thereafter the withdrawal of the reservation to article 40(2)(b)(ii) regarding legal assistance and to article 37(c) regarding separation of juveniles deprived of their liberty from adults;

...

- Saint Vincent and the Grenadines, CRC, CRC/C/118 (2002) 101 at paras. 463 and 464.

463. While recognizing the State party's efforts in this domain the Committee remains concerned that:

...

(c) Children are sometimes forced by the police to confess to criminal offences when they are held in custody at police stations, and are sometimes subject to ill-treatment;

(d) Juveniles are not usually deprived of their liberty as a "last resort" and, because legislation does not provide for a sufficient range of sentencing alternatives to deprivation of liberty, juveniles and young people, especially from 16 years upwards, are sometimes sent to prison when a lesser punishment could have been applied;

(e) Children who have been charged are detained with adult persons charged with crimes, in police stations and for long periods of time, because there are no juvenile criminal detention facilities;

...

(g) There is no institution used exclusively for children where children purging a prison sentence can be sent, that the "Approved Schools" provided for in the Juvenile Act do not exist and that, as a consequence, convicted children over 16 are sent to adult prison;

(h) The Corporal Punishment of Juveniles Act allows for the caning of juveniles who have been found guilty of crime.

464. The Committee recommends that the State party:

...

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(c) Ensure that deprivation of liberty is used only as a last resort and that provision is made for adequate alternatives to deprivation of liberty, such as community service orders;

(d) Ensure the protection of child detainees from ill-treatment and/or being forced to make confessions by the police;

(e) Establish a system through which children who are detained or imprisoned are separated from adults, and establish alternative institutions to prisons, suited to the education and rehabilitation of delinquents;

(f) Urgently prohibit the corporal punishment of children in the context of the juvenile justice system;

...

- Spain, CRC, CRC/C/118 (2002) 117 at paras. 520 and 521.

520. The Committee...notes with concern that the Organizational Act 7/2000 on terrorism increases the period of police custody and the length of prison terms for children accused of terrorism (to up to 10 years). It expresses its concern also at the fact that deprivation of liberty is not used as last resort and that in some cases detention centres are overcrowded.

521. In light of articles 37 to 40 and other relevant international standards, the Committee recommends that the State party:

...

(b) Align the period of police custody for children accused of terrorism with the provisions of the Act and review the length of prison terms for children accused of terrorism;

...

(d) Encourage the use of alternative measures to the deprivation of liberty.

- The Netherlands (Antilles), CRC, CRC/C/118 (2002) 129 at para. 588.

588. The Committee recommends that the State party:

...

(c) Ensure that minors are always heard in the presence of a legal representative; 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, including those pertaining to conditions of detention; and ensure that children are always separated from adults and remain in regular contact with their families while in the juvenile justice system;

...

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- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 61, 62, 87 and 88.

61. The Committee expresses its deep concern about institutional violence and specific reports of torture and ill-treatment of children held at police stations (*commissarias*) which, in some cases, have resulted in death...It notes that, according to the Supreme Court of Justice of the Province of Buenos Aires, several of the children who died had previously reported pressures and torture by the provincial police and that the majority of the cases are not adequately investigated and the perpetrators not brought to justice.

62. In light of article 37 (a) of the Convention, the Committee urges the State party:

(a) To undertake a study on the above-mentioned issues in order to assess their extent, scope and nature;

(b) To enforce the recently signed National Plan of Action for the Prevention and Elimination of Institutional Violence;

(c) To investigate, in an effective way and within a reasonable time, reported cases of killings, torture and ill-treatment of children;

(d) Urgently to take measures to transfer from active duty or suspend, as appropriate, alleged perpetrators while they are under investigation, and release them from service if convicted;

(e) To provide systematic training of law enforcement personnel in human and children's rights and ways to avoid the use of force;

(f) To establish a complaint mechanism, which should be easily accessible and child-sensitive and inform children about their rights, including the right to complain;

(g) To ensure that independent and qualified medical personnel are required to carry out regular examinations of child detainees;

(h) In light of article 39, to take all appropriate measures to ensure possibilities for physical and psychological recovery and social reintegration for child victims of torture and/or ill-treatment, and that they receive compensation.

...

87. The Committee notes with satisfaction the enactment of the Bill on the Criminal Responsibility of Juveniles which establishes limits on juvenile criminal responsibility and procedures to be followed, in accordance with article 40, paragraph 3, of the Convention. However, it reiterates its deep concern that Law N.10.903 of 1919 and Law N.22.278, currently in force and based on the doctrine of "irregular situation", do not make a clear

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distinction between children in need of care and protection and those in conflict with the law. In this regard, the Committee notes that there are several draft laws for the reform of the juvenile justice system under discussion before Parliament, under which a judge can order the detention of children without due process only because of their social situation and that this decision cannot be appealed. In addition, it expresses its concern at the fact that, under article 205 of the Code of Criminal Procedure, a child may be held in *incommunicado* detention for a maximum of 72 hours. It further notes with concern the poor conditions of children in detention, including the lack of adequate basic services such as education and health, the absence of adequately trained staff, and the use of corporal punishment and isolation.

88. The Committee recommends that the State party:

...

(c) Ensure that there is a clear distinction in terms of procedures and treatment between children in conflict with the law and children in need of protection;

(d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law and ensure that children are always separated from adults;

(e) Use alternative measures to pre-trial detention and other forms of deprivation of liberty whenever possible;

(f) 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 complaint procedures covering all aspects of their treatment;

(g) Take the necessary measures to improve detention conditions;

(h) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system;

(i) 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.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 98, 99, 125, 126, 151, 152 and 154.

98. ...[T]he Committee is concerned that the State party is not in a position to withdraw its

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reservation to article 37 (c) owing to the fact that children are still detained with adults in the State party. In that regard, the Committee is concerned that, while the State party has made efforts to reduce the number of children detained with adults, it appears that only resource considerations now prevent the withdrawal of the reservation.

99. The Committee, in line with its previous recommendation (CRC/C/15/Add.34, paras. 22 and 29), and in light of the Vienna Declaration and Programme of Action, recommends that the State party take all necessary measures to end the detention of children in the same facilities as adults and to withdraw its reservation to article 37 (c)...

...

125. The Committee is particularly concerned at recent figures according to which between April 2000 and February 2002, 296 children sustained injuries as a result of restraints and measures of control applied in prison. In addition, the Committee is concerned at the frequent use of physical restraint in residential institutions and in custody, as well as at the placement of children in juvenile detention and in solitary confinement in prisons.

126. The Committee urges the State party to review the use of restraints and solitary confinement in custody, education, health and welfare institutions throughout the State party to ensure compliance with the Convention, in particular articles 37 and 25.

...

151. The Committee welcomes the State party's initiatives to introduce restorative justice and other constructive community-based disposals for juvenile offenders, the almost complete inclusion of 17-year-olds in the juvenile justice system and the creation of multidisciplinary teams to respond to child offenders' behaviour, but notes with serious concern that the situation of children in conflict with the law has worsened since the consideration of the initial report...The Committee is particularly concerned that since the State party's initial report, children between 12 and 14 years of age are now being deprived of their liberty. More generally, the Committee is deeply concerned at the increasing number of children who are being detained in custody at earlier ages for lesser offences and for longer sentences imposed as a result of the recently increased court powers to issue detention and restraining orders. The Committee is therefore concerned that deprivation of liberty is not being used only as a measure of last resort and for the shortest appropriate period of time, in violation of article 37 (b) of the Convention. The Committee is also extremely concerned at the conditions that children experience in detention and that children do not receive adequate protection or help in young offenders' institutions (for 15- to 17-year-olds), noting the very poor staff-child ratio, high levels of violence, bullying, self-harm and suicide, the inadequate rehabilitation opportunities, the solitary confinement in inappropriate conditions for a long time as a disciplinary measure or for protection, and the fact that girls and some boys in prisons are still not separated from adults.

152. In addition, the Committee notes with concern that:

...

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(c) Children in custody do not always have access to independent advocacy services and to basic services such as education, adequate health care, etc.;

...

(e) Young people of 17 years of age are considered as adults for the purpose of remand.

...

154. ...[T]he Committee recommends that the State party:

...

(e) Ensure that detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention, and encourage the use of alternative measures to the deprivation of liberty;

(f) Ensure that every child deprived of his or her liberty has access to independent advocacy services and to an independent, child-sensitive and accessible complaint procedure;

(g) Take all necessary measures, as a matter of urgency, to review the conditions of detention and ensure that all children deprived of their liberty have statutory rights to education, health and child protection equal to those of other children;

(h) Review the status of young people of 17 years of age for the purpose of remand with a view to giving special protection to all children under the age of 18 years;

...

- Seychelles, CRC, CRC/C/121 (2002) 41 at paras. 213 and 215.

213. ...[T]he Committee is concerned that conditions at the Youth Residential Treatment Centre are very poor, that it has few programmes for rehabilitation or education and that its location limits contact between children and their families. Finally, the Committee is also concerned about the lack of community-based rehabilitation alternatives for juvenile offenders.

...

215. The Committee...recommends that the State party:

(a) Increase the number of probation officers and community-based alternatives to detention for juvenile offenders;

(b) Establish a clear minimum age of criminal responsibility at an internationally acceptable level and ensure that children under that age are not held in police custody or other forms of detention;

(c) Improve the conditions at the Youth Rehabilitation and Treatment Centre and ensure that rehabilitation and education programmes are provided while continuing consideration of the

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possibilities of relocating the Centre to the main island in order to facilitate contact between children and their families.

- Sudan, CRC, CRC/C/121 (2002) 53 at paras. 288 and 289.

288. Noting the reference to a juvenile court project in the State party's response to the list of issues, the Committee is concerned that the holistic approach to addressing the problem of juvenile crime advocated in the Convention, including with respect to prevention, procedures and sanctions, has not been sufficiently taken into consideration by the State party. The Committee is concerned that the age of criminal responsibility is too low as a child may be punishable by detention in a reformatory from the age of 7.

289. The Committee recommends that the State party:

(a) Raise the minimum age of criminal responsibility;

...

(d) Guarantee that sentences of capital punishment are not given for acts committed when the perpetrator was a child under 18 and that sentences of life imprisonment without possibility of release are likewise not handed down;

...

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 365 and 366.

365. The Committee is concerned at the general lack of comprehensive information on the Criminal Code 2001. The Committee is, however, particularly concerned at the information received in the written replies according to which disorderly conduct has been defined as a serious crime constituting a danger to society and leading to the criminalization of behavioural problems. The Committee is further concerned at the severe penalties imposed on minors under the Criminal Code 2001.

366. The Committee recommends that the State party review its classification of serious crimes in order to minimize the scope of criminal responsibility for 14 to 16-year-old children. The Committee further recommends, in light of articles 37, 39 and 40 of the Convention, that the State party review the Criminal Code 2001, so that penalties for children are conducive to the realization of the goals of juvenile justice, as spelled out in article 40, paragraph 1, of the Convention, and are at least not more severe than under the previous Criminal Code.

- Republic of Moldova, CRC, CRC/C/121 (2002) 89 at paras. 422 and 423.

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422. ...[T]he Committee notes that there is no legal provision limiting the period of pre-trial detention, that conditions in juvenile detention centres are very poor and offer little possibility for rehabilitation, and that girls are detained in the same facilities as adult women.

423. The Committee recommends that the State party:

...

(c) Take legislative measures to set limited and short periods for pre-trial detention, in accordance with the provisions and principles of the Convention;

(d) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible and for no longer than the period prescribed by law, and ensure that children are always separated from adults;

(e) Use alternative measures to all forms of deprivation of liberty whenever possible and strengthen the role and capacities of the Commission for Minors at the municipal and district levels, while ensuring that they act in full compliance with the Convention;

...

(g) 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 complaint procedures covering all aspects of their treatment;

(h) Ensure access to education for girls and boys in detention;

...

(j) Seek assistance from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice, and UNICEF and through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 457, 458, 487 and 489.

457. The Committee is concerned at the poor conditions of detention of children in police or gendarmerie stations, amounting in many instances to cruel, inhuman or degrading treatment as spelled out in article 37 (a) of the Convention. In addition, the Committee is concerned at methods used by law enforcement officials which may jeopardize the life of children.

458. The Committee urges the State party to take all necessary measures to improve the conditions of detention of children, particularly in police and gendarmerie stations, and to

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ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims receive compensation.

...

487. ...[T]he Committee is deeply concerned at the possibility that children of 16 and 17 years of age are treated like adults and can be subjected to the death penalty or life imprisonment, which is a serious violation of article 37 of the Convention; the failure to separate children from adults in jails (with the exception of the jails in Ouagadougou and Bobo Dioulasso); the poor conditions of detention; the frequent recourse to and excessive length of pre-trial detention (often because of the long time needed for inquiries); the absence of a formal obligation to inform parents about the detention; the possibility for children to appeal only through their parents; the very limited possibilities for the rehabilitation and reintegration of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff.

...

489. ...[T]he Committee particularly recommends that the State Party:

(a) Ensure that persons of 16 and 17 years of age are not treated like adults and enjoy the full protection of the Convention;

...

(c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time, limit by law the length of pre-trial detention, and ensure that the lawfulness of this detention is reviewed by a judge without delay and regularly thereafter;

...

(f) Provide children with basic services (e.g. schooling);

(g) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special prisons for children with conditions suitable to their age and needs and by ensuring the presence of social services in all detention centres in the country, and in the meantime by ensuring that they are separated from adults in all prisons and in pre-trial detention places throughout the country;

(h) Ensure that children remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;

(i) Introduce regular medical examination of children by independent medical staff;

(j) Establish an independent, child-sensitive and accessible complaint system for children;

(k) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

...

(n) Request technical assistance in the area of juvenile justice and police training from,

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among others, OHCHR and other members of the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 518, 519, 543 and 544.

518. The Committee is concerned that there is no clear minimum age of criminal responsibility and that, in some cases, children as young as 10 years of age can be sentenced to educational measures.

519. The Committee recommends that, as the 1982 Law on Procedures in Cases Involving Juveniles considers juveniles to be between the ages of 13 and 17 years, the State party establish 13 years as the minimum age for criminal responsibility in all cases, below which children cannot be sentenced to either correctional or educational measures.

...

543. The Committee is concerned at the high number of juveniles spending extensive periods of time in emergency blocks either as a pre-trial detention measure or as punishment for their actions in the juvenile reform centres. In addition, the Committee is concerned that not all juvenile detention centres guarantee the child's right to maintain contact with his or her family or provide adequate living standards.

544. The Committee recommends that the State party:

...

(b) Enforce the regulations allowing a maximum stay of three months in emergency blocks;

(c) Use deprivation of liberty only as a measure of last resort and protect the rights of children deprived of their liberty, including those pertaining to conditions of detention.

- Israel, CRC, CRC/C/121 (2002) 131 at paras. 586, 587, 612 and 613.

586. The Committee is seriously concerned at allegations and complaints of inhuman or degrading practices and of torture and ill-treatment of Palestinian children by police officers during arrest and interrogation and in places of detention (i.e. Ma'ale Adummim, Adorayim, Beit El, Huwarra, Kedumin, Salem and Gush Etzion police station and prisons such as Terza, Ramleh, Megiddo and Telmond).

587. The Committee strongly recommends that the State party:

(a) Establish and strictly enforce instructions for full compliance with the principles and

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provisions of the Convention by all persons involved in the arrest, interrogation and detention of Palestinian and other children in the State party;

(b) Investigate effectively all cases of torture and inhuman or degrading treatment or punishment by police officers or other government officials and bring the perpetrators to justice;

(c) Pay full attention to the victims of these violations and provide them with opportunities for adequate compensation, recovery and social reintegration...

...

612. The Committee is concerned about:

...

(b) The practice relating to the arrest and interrogation of children in the occupied Palestinian territories;

(c) Military Orders Nos. 378 and 1500, as well as all other military orders which may allow prolonged *incommunicado* detention of children, and which do not provide due process guarantees, access to legal assistance and family visits.

613. The Committee recommends that the State party:

...

(b) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

...

(e) Rescind all provisions in the military orders which violate international standards on the administration of juvenile justice.

- Estonia, CRC, CRC/C/124 (2003) 9 at paras. 72 and 73.

72. The Committee notes the existence of the Crime Prevention Council and a new training council to train judges and prosecutors, and appreciates that the minimum age of criminal responsibility has recently been raised to 14 years. However, the Committee is concerned:

...

(d) That only Tartu and Tallinn have separate rooms and facilities for the questioning of children;

...

(f) That the situation at Maardu Prison is difficult and there is not sufficient opportunity for learning or working or participating in social, educational or arts courses. In addition, there are no programmes to protect the youngest and weakest prison inmates from violent behaviour.

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73. The Committee recommends that the State party:

...

(d) Ensure that deprivation of liberty is only used as a measure of last resort, for the shortest possible time, is authorized by the court, and that persons under 18 are not detained with adults;

(e) Continue and strengthen efforts to improve conditions at Maardu Prison.

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 134 and 135.

134. The Committee is concerned that juveniles accused of violating the law and subject to protective measures may be deprived of their liberty without undergoing criminal proceedings or having access to legal assistance.

135. The Committee recommends that the State party:

...

(b) Use deprivation of liberty only as a measure of last resort and ensure that all juveniles involved in protection measures that may result in deprivation of liberty have access to legal counsel at an early stage;

(c) Amend legislation in order to eliminate the discretionary power of the public prosecutor to decide whether a minor is subject to criminal proceedings or protective measures.

- Italy, CRC, CRC/124 (2003) 36 at paras. 172 and 173.

172. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against children and at the prevalence of abuse, in particular against foreign and Roma children.

173. In line with its previous recommendations ([CRC/C/15/Add.41], para. 20), the Committee recommends that the State party:

(a) Incorporate the crime of torture or other cruel, inhuman or degrading treatment or punishment into criminal law;

(b) Set up child-sensitive mechanisms for receiving complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and within detention centres;

(c) Systematically train the police and carabinieri forces, as well as professionals at

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detention centres, on the human rights of children.

- Romania, CRC, CRC/124 (2003) 49 at paras. 260 and 261.

260. Although encouraged by information from the delegation that the State party is undertaking reforms in the area of juvenile justice, the Committee remains concerned that:

...

- (b) A high number of children are in pre-trial detention;
- (c) The prosecutor has discretionary powers to deny a detainee access to a lawyer for up to five days in the interest of an investigation;
- (d) Very few children are dealt with by diversionary or alternative measures;
- (e) There is a serious lack of capacity within the judicial system to provide rapid intervention or trial, as needed, for juvenile offenders.

261. The Committee recommends that the State party:

...

- (b) Ensure that the system of juvenile justice is adequately resourced;
- (c) Ensure that no children are detained illegally and that when detention is necessary, as a measure of last resort, children are detained separately from adults;
- (d) Promote alternative measures for dealing with children without resorting to judicial proceedings, provided human rights safeguards are respected;
- (e) Strengthen the capacity of the juvenile justice system to provide a timely response;
- (f) Guarantee that children in pre-trial detention will not be denied access to a lawyer.

- Iceland, CRC, CRC/124 (2003) 109 at paras. 464 and 465.

464. The Committee notes the information provided by the delegation concerning steps being taken by the State party to comply fully with articles 9 and 37 of the Convention (namely the provisions in the 2002 Child Protection Act and a proposed law expected to be passed soon giving courts the sole power to decide in child protection cases; and the 1998 agreement between the Prison and Probation Administration and the Governmental Agency for Child Protection to allow prisoners under 18, at their request, to be detained in treatment homes under the supervision of the Agency)...[I]t considers that the 1998 agreement falls

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short of a legal guarantee of separation from adults, as contained in article 37 (c) of the Convention.

465. The Committee recommends that the State party:

...

(b) Guarantee by law the separation of detained children and adults, in accordance with article 37 (c) of the Convention.

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 221 and 223.

221. The Committee notes the establishment of the Child Justice Forum and the Pilot Arrest, Reception and Referral Services. However, it is deeply concerned at the possibility that a child may be sentenced at the President's pleasure. The Committee is also concerned at the low age of criminal responsibility, the absence of juvenile courts and juvenile judges, the detention of children with adults, the lack of social workers, the very poor conditions of detention, due mainly to overcrowding, the frequent recourse to and excessive length of pre-trial detention, the very limited rehabilitation and reintegration services for juveniles following judicial proceedings and the limited training of judges, prosecutors and prison staff.

...

223. ...[T]he Committee specifically recommends that the State party:

(a) Prohibit the use of penalty at the President's pleasure;

(b) Raise the age of criminal responsibility;

...

(e) Ensure that detention, including pre-trial detention, is used only as a measure of last resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention;

(f) Separate children from adults in prison and in pre-trial detention places all over the country;

(g) Strengthen rehabilitation and reintegration programmes;

...

- Solomon Islands, CRC, CRC/C/132 (2003) 58 at paras. 341 and 342.

341. The Committee notes that a number of juvenile offenders were provided with counselling or pardoned and not brought to court and that in those cases the principle of the

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best interests of the child was taken into consideration. The Committee is further encouraged that between 1991 and 1995 the number of cases involving juvenile offenders decreased by 47 per cent and would like to receive updated data on this issue. The Committee is, however, concerned that:

- (a) The minimum age of criminal responsibility is too low (8 years);
- (b) There exists no separate facility for juvenile offenders and that they may be detained along with adult criminals, as demonstrated by the police practice of transferring children or young persons who have not yet been formally charged to a remand cell at Central Prison in Rove where convicted criminals are also detained.

342. The Committee recommends that the State party:

...

- (b) Raise the minimum age of criminal responsibility to an internationally acceptable age;
- (c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time;
- ...
- (f) Review legislation to ensure that children cannot be sentenced to life imprisonment;
- (g) Ensure that children in detention are separated from adults;
- (h) Ensure that children remain in regular contact with their families while in the juvenile justice system;

...

- Libyan Arab Jamahiriya, CRC, CRC/C/132 (2003) 74 at paras. 390 and 391.

390. In addition to the *de facto* age of criminal responsibility of 7 years, which is much too low, the Committee is concerned that:

- (a) Conditions in detention, including pre-trial detention, are poor;
- (b) Status offences are criminalized (i.e. vagrant and street children may be placed in juvenile homes or other institutions);
- (c) That the Collective Punishment Law, which may affect children, violates fundamental human rights principles;
- (d) The holistic approach to addressing the problem of juvenile crime (e.g. addressing

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underlying social factors) advocated in the Convention, including prevention, special procedures, and diversion, has not been sufficiently taken into consideration by the State party.

391. The Committee recommends that the State party:

...

(b) End the criminalization of status offences;

(c) Take legislative measures formally to abolish flogging as a punishment;

(d) 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;

...

(g) Repeal the Collective Punishment Law;

(h) Train professionals in the area of social rehabilitation of children.

- Jamaica, CRC, CRC/C/132 (2003) 86 at paras. 450 and 451.

450. While recognizing the State party's efforts and achievements in this domain, the Committee remains concerned that:

(a) There is no independent mechanism to monitor and evaluate the situation of children in conflict with the law, including children deprived of their liberty, and the rehabilitation of juvenile offenders;

(b) The stereotypical inflexible attitudes concerning children's rights among police officers and members of the judiciary are impeding the full implementation of the Convention in this regard;

(c) Children are sometimes held in lock-ups by the police in sub-standard conditions, and that children in pre-trial detention may wait as long as a year before their case is dealt with by the court.

451. The Committee recommends that the State party, in the light of the Committee's day of general discussion on juvenile justice, develop mechanisms and provide adequate resources to ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines). In particular, the

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Committee recommends that the State party:

- (a) Establish an independent mechanism to monitor the situation of children in conflict with the law, including children in juvenile detention centres, and monitor preventive, recovery and evaluation policies in this regard;
 - (b) Amend the legislation to ensure that children are not sentenced to life imprisonment;
 - (c) Strengthen its efforts to educate and sensitize police personnel, judicial personnel and other staff within the justice system to the provisions of the Convention, especially concerning the special needs of children deprived of their liberty, to ensure that the rights of the child, *inter alia* to be separated from adults and to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, are always respected;
 - (d) Take further measures to ensure that detainees under the age of 18 are not kept, or even placed, in police lock-ups in sub-standard conditions, *inter alia* by improving the living conditions of children on remand and encouraging communication between the police and children's officers responsible for the placement of detained children, and take further measures to introduce more alternatives to institutionalization of juvenile offenders. In this regard, the Committee wishes to emphasize that article 37 (b) of the Convention requires that detention shall be used only as a measure of last resort and for the shortest appropriate period of time;
 - (e) Evaluate and improve the standards of the juvenile institutions, such as the Places of Safety, including their living conditions, reintegration and psychological recovery programmes and the quality of the personnel;
 - (f) Seek assistance from, among others, OHCHR, the Centre for International Crime Prevention and UNICEF.
- Kazakhstan, CRC, CRC/C/132 (2003) 129 at paras. 647 and 648.

647. The Committee...welcomes the information about two pilot projects on juvenile justice aiming at the establishment of a rights-based approach to juveniles in conflict with the law in full compliance with the Convention, but is concerned at the existing shortcomings in the juvenile justice system, *inter alia*:
...
(b) The parents or guardians of children kept in pre-trial detention are not immediately informed about such detention (in fact, often only after a lengthy period of time), which can last for 18 months;

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- (c) The placement of children aged 11 to 14 in “special educational institutions” as a form of punishment provided for in the commentary to the Criminal Code and the vague legal provisions for the issuance of such decisions;
- (d) The placement of children from 3 to 18 in centres for temporary isolation, adaptation and rehabilitation for juveniles (CITARJ), without legal grounds or procedure;
- (e) The still large number of children sentenced to placement in corrective and other institutions and insufficient education and guidance provided in these institutions, and the lack of social and psychological recovery measures;
- (f) The existence of subordinate norms and departmental regulations and instructions that allow the restriction of freedom of children without fully complying with the provisions of the criminal, criminal-procedural and criminal-executive legislation.

648. The Committee recommends that the State party:

...

- (b) Use detention, including pre-trial detention, only as a measures of last resort, for as short a time as possible;
- (c) In light of article 39, take appropriate measures to promote the rehabilitation and social reintegration of children involved in the juvenile justice system, including adequate education and certification to facilitate their reintegration;
- (d) Ensure that existing norms and regulations allowing the restriction of freedom of children conform to the laws of Kazakhstan and international standards;
- (e) CITARJ should be transformed into centres for assistance and placement of lost, abandoned and homeless children, but only as a temporary measure and for the shortest time possible;
- (f) Seek assistance from, among others, OHCHR and UNICEF through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

- Madagascar, CRC, CRC/C/133 (2003) 56 at paras. 289 and 290.

289. The Committee is concerned at the poor conditions of detention of children and at incidents of ill-treatment by prison guards, amounting in many cases to cruel, inhuman and degrading treatment prohibited under article 37 (a) of the Convention.

290. The Committee urges the State party to take all necessary measures to improve the

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conditions of detention of children, to provide these children with accessible and safe procedures for filing complaints to an independent body, and to ensure that each case of violence and abuse is duly investigated, that perpetrators are brought to justice without undue delay and that victims are provided with opportunities for social rehabilitation, full physical and psychological recovery and access to adequate procedures for seeking compensation. The Committee further recommends that the State party take the necessary steps to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- Singapore, CRC, CRC/C/133 (2003) 84 at paras. 427 and 428.

427. The Committee is concerned that the minimum age of criminal responsibility is too low, that all persons in conflict with the law under 18 are not afforded special protection, and that corporal punishment and solitary confinement are used to discipline juvenile offenders.

428. The Committee recommends that the State party:

...

(c) Amend the Children and Young Persons Act to ensure special protection for all offenders up to the age of 18;

(d) Prohibit the use of corporal punishment, including whipping and caning, and solitary confinement in all detention institutions for juvenile offenders, including police stations;

...

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 509 and 510.

509. The Committee acknowledges the efforts made by the State party to improve the juvenile justice system. However, the Committee remains concerned at the limited progress achieved in establishing a functioning juvenile justice system throughout the country. In particular, the Committee is concerned at:

(a) The minimum age of criminal responsibility (7 years), which remains far too low;

(b) The sentencing to life imprisonment of children from the age of 7 years and to the death penalty of children from the age of 16 years;

...

(d) The extensive discretionary powers of the police, reportedly resulting in incarceration of street children and child prostitutes;

(e) The use of caning and whipping as a sentence for juvenile offenders;

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(f) The failure to ensure full respect for the right to a fair trial, including legal assistance for alleged child offenders and the very long periods of pre-trial detention;

(g) The detention of children with adults and in very poor conditions, without access to basic services.

510. ...[T]he Committee recommends that the State party:

(a) Raise the minimum age of criminal responsibility to an internationally acceptable level;

(b) Ensure that the imposition of the death penalty, of life imprisonment without possibility of release, and of caning and whipping as sanctions for crimes committed by persons while under 18 is explicitly prohibited by law;

...

(d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by guaranteeing separation of children from adults in prisons and in pre-trial detention places all over the country;

...

- Georgia, CRC, CRC/C/133 (2003) 111 at paras. 582 and 583.

582. The Committee welcomes the transfer of the penitentiary system from the Ministry of the Interior to the Ministry of Justice, as well as the ongoing cooperation of the State party with the Council of Europe's Committee for the Prevention of Torture. The Committee is, however, deeply concerned by allegations of ill-treatment of children by the police and the lack of follow-up to the previous recommendations of the Committee relating to juvenile justice.

583. The Committee reiterates its previous recommendations that the State party:

...

(b) Use detention, including pre-trial detention, only as a measure of last resort, for as short a time as possible, and develop alternative measures, such as community service and half-way homes to deal with juvenile delinquents in a more effective and appropriate manner;

(c) In light of article 39, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including adequate education and certification to facilitate their reintegration;

...

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(e) Request technical assistance in the area of juvenile justice from, among others, the Office of the United Nations High Commissioner for Human Rights and UNICEF.

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 96 and 98.

96. The Committee is very concerned at the very large number of children sentenced to jail even for petty crimes and despite article 66, paragraph 4, of Law No. 39 of 1999 on Human Rights, and that these children are often detained with adults and are detained in poor conditions, even when in detention centres for children.

98. The Committee recommends that the State party:

...

(b) Ensure that detained children are always separated from adults, and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and in appropriate conditions;

(c) In cases where deprivation of liberty is unavoidable, improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of children in conflict with the law;

...

- Guyana, CRC, CRC/C/137 (2004) 26 at paras. 170 and 171.

170. While recognizing the efforts made by the State party in this domain, the Committee remains concerned at the incompatibility of the juvenile system with the provisions and principles of the Convention... [T]he Committee is concerned at the lack of remand homes for male and female juveniles and at the very harsh conditions of detention.

171. The Committee recommends that the State party:

...

(d) Establish separate remand homes for boys and girls;

...

- Armenia, CRC, CRC/C/137 (2004) 36 at paras. 247 and 248.

247. The Committee reiterates its concern about the absence of a system of juvenile justice, in particular the absence of specific laws, procedures and juvenile courts. The Committee is also concerned about: the length of pre-trial detention and the limited access to visitors during this period; the use of detention not as a measure of last resort, and the often

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disproportionate length of sentences in relation to the seriousness of offences; the conditions of detention; and the absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders.

248. The Committee...encourages the State party:

...

(b) To develop and implement alternative measures to reduce the use and length of pre-trial detention and other custodial sentences;

(c) To ensure that the deprivation of liberty of juveniles is only used as a measure of last resort, for the shortest possible time, and that children have access to legal aid;

...

(e) To develop programmes and provide facilities for the physical and psychological recovery and social reintegration of juveniles;

- The Netherlands (Netherlands and Aruba), CRC, CRC/C/137 (2004) 63 at paras. 373 and 374.

373. The Committee is concerned that in the State party:

(a) Children in conflict with the law between the ages of 16 and 18 may be sentenced as adults;

(b) An increasing proportion of children in conflict with the law in the Netherlands are being sentenced to detention;

(c) Juvenile offenders, in the Netherlands, are sometimes detained with children institutionalized for behavioural problems;

(d) There are limited alternatives to detention available in Aruba.

374. The Committee recommends that the State party:

...

(b) Amend legislation in the Netherlands and Aruba so that life imprisonment cannot be imposed on anyone between the age of 16 and 18 and fix a maximum limit for their detention;

(c) Ensure that the detention of juvenile offenders is used only as a measure of last resort;

(d) Avoid detention of juvenile offenders with children institutionalized for behavioural problems;

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(e) In Aruba, expedite efforts to create more alternatives to detention for children in conflict with the law;

...

- India, CRC, CRC/C/137 (2004) 75 at paras. 420 and 421.

420. The Committee is concerned at numerous reports of ill-treatment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children by law enforcement officials.

421. In line with its previous recommendations (CRC/C/15/Add.115, paras. 39-41), the Committee recommends that the State party:

...

(b) Set up child-sensitive mechanisms to receive complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and in detention centres;

(c) Investigate and prosecute complaints in a child-sensitive manner;

(d) Strengthen its efforts to train the law enforcement personnel on the human rights of children; and

(e) In light of article 39, take all appropriate measures to ensure the physical and psychological recovery and social integration of child victims of torture and/or ill-treatment.

- Japan, CRC, CRC/C/137 (2004) 116 at paras. 655 and 656.

655. While noting that the State party has undertaken a reform of the juvenile justice law since the Committee's consideration of its initial report, it is concerned that many of the reforms were not in the spirit of the principles and provisions of the Convention and international standards on juvenile justice, in particular, with regard to the minimum age of criminal responsibility, which was lowered from 16 to 14 years, and pre-trial detention, which was increased from four to eight weeks. It is concerned that an increasing number of juveniles are tried as adults and sentenced to detention, and that juveniles may be sentenced to life imprisonment...

656. The Committee recommends that the State party:

...

(b) Amend legislation so as to abolish life imprisonment for juveniles;

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(c) Strengthen and increase the use of alternatives to detention, including pre-trial detention, in order to ensure that deprivation of liberty is used only as a measure of last resort;

(d) Review the existing possibility for Family Courts to transfer a case against a child of 16 years or older to a criminal court for adults with a view to abolishing this practice;

(e) Provide legal assistance to children in conflict with the law throughout the legal proceedings;

...

(g) Strengthen rehabilitation and reintegration programmes.

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 57 and 58.

57. The Committee is deeply concerned about the incidence of torture and ill-treatment and the generalized disrespect for fundamental human rights in centres for juvenile offenders in the State party as documented by the Human Rights Procurator's Office, which has a constitutional mandate to monitor the situation of persons deprived of their liberty, in its special report of November 2003 on the conditions in centres of internment for juvenile offenders. The Committee notes with concern the inadequacy of the review procedure established under the Juvenile Offenders Act and of access to the complaint mechanisms for children whose rights have been violated. It is also concerned that the State party was not able to provide information on or give an estimate of the number of registered cases of torture and ill-treatment in such internment centres.

58. The Committee urges the State party to take immediate and effective measures to bring an end to the occurrence of torture and other cruel, inhuman and degrading treatment in internment centres, in particular of juvenile offenders. The State party must ensure that:

(a) The fundamental rights and guarantees of juveniles who have committed a criminal offence set out in the Juvenile Offenders Act are respected, in particular, the prohibition, under all circumstances, of inhuman or degrading disciplinary measures, including: corporal punishment, detention in dark cells or solitary confinement, reduction of food rations, denial of contact with relatives, collective punishment and punishment more than once for the same disciplinary offence;

(b) The monitoring of the situation in detention centres is strengthened and that a system is established to register all reported cases of torture and ill-treatment;

(c) Effective mechanisms to investigate and prosecute cases of torture and ill-treatment are created;

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(d) Personnel working with juvenile offenders duly comply with the law and are properly trained and informed about their role and responsibilities;

(e) Disciplinary measures and other appropriate legal action are taken against personnel who have undertaken or authorized inhuman or degrading treatment;

(f) Preventive programmes are implemented to address the problems identified in the report of the Human Rights Procurator's Office;

(g) An integrated programme to prevent and eliminate institutional violence is implemented.

- Rwanda, CRC, CRC/C/140 (2004) 36 at paras. 229-233.

229. The Committee is extremely concerned that persons below the age of 18 at the time of their alleged war crime have not yet been tried, have been detained in very poor conditions, some for a very long time, and are not provided with appropriate services to promote their rehabilitation. The Committee notes the establishment of *gacaca* courts but is deeply concerned that no specific procedure has been established for those who were under 18 at the time of their alleged crime, as required by article 40, paragraph 3, of the Convention, and are still in what could be considered as pre-trial detention.

230. In the light of articles 37, 40 and 39 of the Convention and other relevant international standards, the Committee recommends that the State party take all necessary measures to complete within six months all pending legal proceedings against persons who were below the age of 18 at the time they allegedly committed war crimes.

231. While recognizing the State party's efforts in this domain, including through adopting legislation, decrees and ministerial circulars, the Committee is concerned at the limited progress achieved in establishing a functioning juvenile justice system throughout the country...[I]t is deeply concerned at the very poor conditions of detention, due notably to overcrowding in detention and prison facilities, overuse and extremely long periods of pre-trial detention, the length of time before the hearing of juvenile cases, the lack of assistance towards the rehabilitation and reintegration of juveniles following judicial proceedings and the lack of systematic training of judges, prosecutors and prison staff.

232. The Committee recommends that the State party take additional steps to reform the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including 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), the United Nations Rules for the Protection of Juveniles Deprived of

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Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System.

233. In addition, the Committee recommends that the State party:

...

(b) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period and limit by law the length of pre-trial detention;

...

(d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by addressing the problem of overcrowding in prisons and establishing special prisons for children with conditions suited to their age and needs, and in the meantime guarantee that all persons under 18 are separated from adults in prisons and places of pre-trial detention throughout the country;

(e) Ensure that all persons under 18 in conflict with the law do not receive the same sanctions as adults;

(f) Ensure that persons under 18 remain in regular contact with their families while in the juvenile justice system;

(g) Introduce regular medical examination of inmates by independent medical staff;

(h) Establish an independent child-sensitive and accessible system for individual complaints for persons under 18;

(i) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(j) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings; and

(k) Request technical assistance in the area of juvenile justice and police training from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF.

- Sao Tome and Principe, CRC, CRC/C/140 (2004) 54 at para. 298.

298. The Committee recommends that the State party:

...

(c) Ensure that detained persons under the age of 18, including in pre-trial detention, are always separated from adults, and that deprivation of liberty is used only as a last resort, for

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the shortest appropriate time period and in appropriate conditions;

- Liberia, CRC, CRC/C/140 (2004) 67 at paras. 368 and 370.

368. The Committee is concerned that the juvenile justice system does not conform to international norms and standards. While noting that the minimum age for criminal responsibility is set at 16, the Committee is concerned that children under the age of 16 are nevertheless held criminally responsible in juvenile court procedures. In particular, it is concerned about the lack of separate detention facilities for persons below the age of 18 and the poor living conditions in these facilities. The fact that capital punishment and imprisonment without possibility of release can be applied under Penal Law to children aged 16 and 17 years at the time the crime was committed is also a major issue of concern for the Committee.

...

370. ...[T]he Committee recommends that the State party:

...

(b) In the light of article 37, subparagraph (a), urgently amend the Penal Law to ensure that neither capital punishment nor life imprisonment without possibility of release can be imposed for offences committed by persons below the age of 18;

...

(d) Take all necessary measures to establish separate detention facilities for juveniles, including through technical cooperation.

- Dominica, CRC, CRC/C/140 (2004)101 at paras. 503 and 505.

503. The Committee is concerned at the lack of juvenile courts and at the fact that children may be sentenced to a penalty at the “President’s pleasure”, to life imprisonment and to whipping in private.

...

505. The Committee...recommends that the State party:

(a) Review the sentencing of children at the “President’s pleasure” so that the decision is in the hands of the judge;

(b) Abolish the sentences of whipping and life imprisonment;

(c) Separate children from adults in detention, including in pre-trial detention centres.

- Democratic People’s Republic of Korea, CRC, CRC/C/140 (2004) 111 at paras. 575 and

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576.

575. The Committee takes note that most persons under the age of 17 in conflict with the law are dealt with without resorting to judicial proceedings, but the Committee remains unclear on how the safeguards enshrined in the Convention, especially in articles 37 and 40, are fully respected in this regard... The Committee remains also unclear about the type of sentencing, called “public education measures”, which is applied to persons under 17. Furthermore, the Committee is very concerned that persons aged 17 are considered and treated as adults in the justice system, and therefore do not benefit from the special protection measures recognized in the Convention and can be sentenced to “reform through labour”.

576. The Committee recommends that the State party:

...

(b) Amend the law so that persons under 18 are not sentenced to “reform through labour”;

...

(e) Develop programmes for the reintegration of juvenile offenders, including those that were subject to education measures instead of detention...

...

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 93 and 95.

93. The Committee notes the establishment of juvenile courts. Nevertheless, it is concerned at the lack of clear guarantees for a fair and speedy trial and of the enforcement of rules for pre-trial detention. The Committee is also concerned that socio-educative measures are not frequently applied and therefore, as a result, a large number of persons below age 18 are in detention, and at the very poor conditions of detention. The Committee is also concerned at the numerous reports of ill-treatment of young inmates, the very limited possibilities for the rehabilitation and reintegration into society of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff in children’s rights.

...

95. ...[T]he Committee particularly recommends that the State party:

(a) Fully implement the relevant rules of the statute concerning juvenile justice, including the socio-educative measures in all the territory of the State party;

(b) Provide the means and encouragement so that persons under 18 in conflict with the law be handled, as far as possible, without resorting to judicial proceedings;

...

(e) Protect the rights of persons under 18 deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special institutions for

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persons under 18 with conditions suitable to their age and needs and by ensuring the accessibility to social services in particular health care and education, in all detention centres in the State party; and in the meantime by guaranteeing separation from adults in all prisons and in pre-trial detention places all over the country;

(f) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prisons guards, and establish an independent, child-sensitive and accessible system for receiving and dealing with complaints;

(g) Ensure that children remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;

(h) Introduce regular medical examination of persons under 18 who are deprived of their liberty by independent medical staff;

...

- Kyrgyzstan, CRC, CRC/C/143 (2004) 50 at paras. 307 and 308.

307. The long pre-trial detention periods, the harshness of the punishments given to those below 18 when found guilty (up to 15 years in prison) and the lack of alternative penalties to deprivation of liberty for those under the age of 14 are...of concern to the Committee...

308. The Committee...encourages the State party as a matter of priority:

...

(b) To review the existing distinction regarding criminal responsibility of minors under 14 years and those under 16 years, and ensure that alternative penalties to the deprivation of liberty exist for all minors;

(c) To ensure that pre-trial detention is used only in exceptional cases, and when this does occur, that access to relatives/representatives and to doctors and lawyers is guaranteed;

(d) To undertake all necessary measures, including through technical cooperation, to establish separate detention facilities for juveniles;

...

- Equatorial Guinea, CRC, CRC/C/143 (2004) 64 at paras. 371 and 372.

371. The Committee is deeply concerned about the lack of a juvenile justice system in the country. In particular, the Committee is concerned about the lack of juvenile courts and about the detention of persons below 18 with adults, in very poor conditions and without

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access to basic services.

372. The Committee recommends...that the State party, in particular:

...

(b) Limit by law the length of pre-trial detention and ensure that the lawfulness of such detention is reviewed by a judge without delay and regularly;

(c) Improve the conditions of detention and imprisonment of persons below 18, notably by establishing special institutions for them with conditions suitable to their age and needs;

(d) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent, child-sensitive and accessible system for the receipt and processing of complaints by children;

(e) Ensure that children deprived of their liberty remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;

(f) Request technical assistance in the area of juvenile justice and police training from, *inter alia*, OHCHR and UNICEF.

- Antigua and Barbuda, CRC, CRC/C/143 (2004) 93 at paras. 520 and 521.

520. The Committee is concerned at the very low minimum age of criminal responsibility, which is set at 8, and at the possibility that a person under 18 years can be sentenced to life imprisonment for murder. The Committee is further concerned that persons under 18 are not separated from adults when in detention, and that other problems in the administration of juvenile justice exist in the State party, including:

...

(c) There are no separate facilities for persons under 18 and that they can be placed in adult prisons, which are reported to be overcrowded and in poor condition;

(d) Section 7 of the Juvenile Court Act stipulates that a juvenile can be detained in “any place of safety, including a prison” if he/she is deemed to be “of such an unruly character or so depraved a character”; and

(e) Persons under 18 years of age can be sent to prison, possibly for life, for murder or treason, since, by the State party’s own admission, the law does not stipulate the length of such incarceration.

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521. The Committee recommends...that the State party, in particular:

...

(c) Ensure that detained children are always separated from adults and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and in appropriate conditions; and

(d) In cases where deprivation of liberty is unavoidable and used as a last resort, improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of children in conflict with the law.

- Albania, CRC, CRC/C/146 (2005) 19 at paras. 151 and 152.

151. The Committee welcomes the information provided by the State party on legislative measures taken to improve compliance with the provisions of the Convention. But the Committee is concerned at the lack of implementation of the existing provisions and the lack of an effective juvenile justice system of specialized police prosecutors, judges and social workers to deal with children in conflict with the law.

152. The Committee recommends that the State party:

(a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well 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), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion, held in 1995, on the administration of juvenile justice;

(b) Pay in this effort, as a matter of priority, particular attention to:

i) The need to take measures to prevent and reduce the use of pre-trial and other forms of detention and to make this detention as short as possible, *inter alia*, by developing and implementing alternatives to detention such as community service orders, interventions of restorative justice, etc.;

ii) The need to train police officers, prosecutors, judges and others involved in the process of dealing with children in conflict with the law, in order to, *inter alia*, make sure that these children are interrogated by trained police officers who notify parents immediately about their child's arrest and who encourage the presence of legal assistance for the child;

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iii) The need to promote, in accordance with article 40, paragraph 1, of the Convention, social reintegration of children in the society;

...

- Luxembourg, CRC, CRC/C/146 (2005) 36 at paras. 188, 189, 216 and 217.

188. While noting that the new Act of 16 June 2004 dealing with the reorganization of the State Socio-Educational Centre reduces to 10 days, instead of the previous 20 days, the maximum duration of solitary confinement as a disciplinary sanction for persons under 18 years of age, and provides the child with the possibility of appealing to the juvenile judge, the Committee is still deeply concerned at the use and length of this isolation and at the very harsh conditions depriving the child of almost all contact with the outside world and of any outdoor activity.

189. The Committee recommends that the State party develop and implement alternative disciplinary sanctions in order to avoid as much as possible the use of solitary confinement, to further reduce the length of this confinement and to improve its conditions, *inter alia*, by providing persons under 18 with access to an outdoor area for at least one hour a day and giving them access to some kind of recreational facilities...

...

216. While the Committee notes the positive steps taken by the State party through the recent adoption of the Act of 16 June 2004, it remains concerned about:

(a) The placement of persons under 18 in detention centres for adults, resulting in frequent contacts between both groups (even if they live in separate cells);

(b) The fact that persons under 18 who are in conflict with the law and those having social or behavioural problems are placed in the same structures;

...

(d) The placing of persons under 18 in solitary confinement (see paras. 188 and 189 above).

217. ...[T]he Committee recommends that the State party, in particular:

(a) Establish separate detention facilities for persons under 18;

(b) Take measures to prevent and reduce the use of pre-trial and other forms of detention and to make this detention as short as possible, *inter alia*, by developing and implementing alternatives to detention, such as community service orders, interventions of restorative justice, and so on;

(c) Keep persons under 18 who are in conflict with the law separate from persons under 18

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with social or behavioural problems;

...

(e) Set up an independent monitoring body to inspect regularly juvenile facilities.

- Austria, CRC, CRC/C/146 (2005) 47 at paras. 275 and 276.

275. The Committee is concerned about the increasing number of persons below 18 placed in detention, disproportionately affecting those of foreign origin, and that persons below 18 are not always separated from adults.

276. The Committee recommends that the State party:

(b) ...undertake the following particularly recommended measures:

(i) Alternative measures for detention, including pre-trial detention, should be strengthened and applied as much as possible in order to ensure that this deprivation of liberty is really a measure of last resort for the shortest time possible;

(ii) Measures to ensure that persons below 18 held in detention are strictly separated from adult detainees, also during daytime activities;

(iii) Measures to ensure that the staff in juvenile detention centres are well trained to deal in a proper and adequate manner with the relatively high number of persons below 18 who are of foreign origin;

...

(c) In the light of article 40, paragraphs 1 and 4, of the Convention, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including through adequate education.

- Belize, CRC, CRC/C/146 (2005) 59 at paras. 362 and 363.

362. While noting with appreciation the establishment of the Community Rehabilitation Department in 2001, the Committee reiterates its serious concern at the low minimum legal age of criminal responsibility and the large number of children in detention... With respect to domestic legislation for the administration of juvenile justice, including alternative forms of punishment, the Committee expresses its concern about the deficiencies in the implementation of the said provisions. The Committee is deeply concerned about the fact that children as young as 9 years of age can be sentenced to life imprisonment without provision for parole. Furthermore, the Committee is concerned about the inadequate conditions of the Boot Camp detention unit at the Hattieville Prison.

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363. The Committee recommends that the State party...take measures, in particular:

...

(c) As regards life imprisonment of children without provision for parole, to urgently review its domestic legislation, particularly the provisions of the Indictable Procedures Act (chapter 96 of the Laws of Belize) and the Court of Appeal Act (chapter 90 of the Laws of Belize), in order to bring its domestic laws into full conformity with the provisions and principles of the Convention;

(d) To ensure that detained persons under the age of 18, including in pre-trial detention, are always separated from adults, and that deprivation of liberty is used only as a measure of last resort, for the shortest period of time and in appropriate conditions;

(e) In cases where deprivation of liberty is unavoidable and used as a last resort, to improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of juveniles in conflict with the law;

...

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 480 and 481.

480. The Committee deeply regrets that, under existing laws, persons below the age of 18 who have committed a crime can be subjected to corporal punishment and sentenced to various types of torture or other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, which are systematically imposed by judicial authorities and which the Committee considers to be totally incompatible with article 37 (a) and other provisions of the Convention.

481. In the light of the consideration of the Bill on the Establishment of Juvenile Courts, the Committee urges the State party to take all the necessary measures to ensure that persons who committed crimes while under 18 are not subjected to any form of corporal punishment and to suspend the imposition and the execution of sentences of amputation, flogging, stoning and other forms of cruel, inhuman or degrading treatment or punishment.

- Togo, CRC, CRC/C/146 (2005) 104 at paras. 587 and 588.

587. The Committee is concerned about the absence of a juvenile justice system compatible with the provisions and principles of the Convention, particularly about:

...

(b) The long pre-trial detention periods;

(c) The lack of alternatives to detention for persons under 18 in conflict with the law;

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...

(e) The fact that persons under 18 are often detained with adults and in very poor conditions.

588. The Committee recommends...that the State party:

(a) Take immediate measures to ensure that deprivation of liberty is used only as a last resort and for the shortest appropriate period of time and in appropriate conditions;

(b) Develop alternative measures to deprivation of liberty;

(c) In cases where deprivation of liberty is unavoidable:

(i) Improve procedures of arrest and conditions of detention;

(ii) Ensure that persons under 18 are not detained with adults;

(iii) Ensure that children are only detained for the shortest time possible;

...

(f) Establish rehabilitation and reintegration programmes;

...

- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 660 and 661.

660. The Committee welcomes the legislative improvements in the rules applicable to children in conflict with the law. However, it is concerned that the juvenile justice system still has serious shortcomings in practice, such as the lack of adequate alternatives to pre-trial and other forms of detention, the very poor living conditions of juveniles detained in police stations or other institutions, the length of pre-trial detention and the fact that according to the information provided in the written replies thousands of persons below the age of 18 are detained with adults.

661. The Committee recommends that the State party take the necessary measures to ensure that the rules, regulations and practice of the juvenile justice system are in conformity with articles 37, 39 and 40 of the Convention and other relevant international standards and are applied with respect to all persons below 18 years who are in conflict with the law. In this regard, the Committee more specifically recommends that the State party:

(a) Develop and implement alternatives to pre-trial and other forms of detention in order to ensure that deprivation of liberty is really a measure of last resort for the shortest time possible;

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- (b) Develop and implement adequate socio-educational programmes and appropriate probation and parole arrangements for juvenile offenders;
 - (c) Take the necessary measures to significantly improve the living conditions of juveniles deprived of their liberty and ensure that they are separated from adults;
 - (d) Ensure that new detention centres for juveniles are not located in remote areas and are equipped with the necessary facilities for the rehabilitation of juveniles;
 - (e) Continue and strengthen the training on the Convention and other relevant legislation for those responsible for administering juvenile justice;
 - (f) Seek assistance from OHCHR, the Centre for International Crime Prevention, regional institutions and UNICEF.
- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 742 and 745.

742. The Committee notes with appreciation the efforts made by the State party to reform the Juvenile Justice Administration (JIA), including the establishment of a National Working Group on Juvenile Justice Administration in 2002 and the introduction of the draft National Policy on Child Justice Administration in Nigeria for discussion. However, the Committee remains gravely concerned that the juvenile justice system in the State party, in particular, the sharia court system, does not conform to international norms and standards, in particular that:

...

 - (b) Juvenile offenders are frequently subjected to physical assaults by the police and custodial officers;
 - (c) Placement of persons below 18 in the same detention and prison facilities with adults;
 - (d) Excessive length of detention, which in some cases can last as long as eight years;

...

 - (h) Some children are detained for “status offences” such as vagrancy, truancy or wandering, or at the request of parents for “stubbornness or for being beyond parental control”;
 - (i) Serious overcrowding and the poor conditions of homes and juvenile centres for persons below 18 in conflict with the law, as well as prisons in which they are placed;
 - (j) Lack of trained professionals working in such institutions;

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(k) Absence of assistance towards the rehabilitation and reintegration of persons below 18 following judicial proceedings; and

(l) Article 12 of the Child and Young Persons Act and article 319 (2) of the Criminal Code, as well as the sharia Penal Codes in 12 northern states which allow for imposition of death penalty on persons below 18.

...

745. ...[T]he Committee urges the State party to, in particular:

...

(c) Develop and implement alternative measures for deprivation of liberty in order to really make detention a measure of last resort for the shortest possible time;

(d) In cases where deprivation of liberty is unavoidable, ensure that the conditions of detention are in full compliance with, in particular, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;

(e) Amend, as a matter of urgency, the Child and Young Persons Act and the Criminal Code, as well as the sharia Penal Codes to abolish death penalty as well as cruel, inhuman and degrading treatment on juvenile offenders, and in the meantime take measures, as a matter of priority, to ensure that persons under 18 are not sentenced to torture, cruel, inhuman and degrading forms of sanction such as flogging and amputation by sharia courts;

...

(g) Make every effort to establish a programme of rehabilitation and reintegration of juveniles following judicial proceedings;

(h) Enact an amendment to the Children and Young Persons Act, prohibiting all forms of corporal punishment in penal institutions;

(i) Seek technical assistance from, among others, OHCHR and UNICEF.

- Saint Lucia, CRC, CRC/C/150 (2005) 10 at paras. 97 and 98.

97. The Committee is concerned that the legal provisions and the practice of the administration of juvenile justice do not fully comply with the provisions of articles 40, 39 and 37 of the Convention and other relevant international standards, in particular the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112). The Committee is further concerned:

(a) At the lack of State provisioning for females below 18 years in conflict with the law;

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(b) That the sentence of life imprisonment is not excluded for persons below the age of 18 years as stated in the State party report ([CRC/C/28/Add.23,] para. 285);

(c) That rehabilitation and social reintegration for those persons below the age of 18 years who have been in conflict with the law is not emphasized within services meant to provide these benefits and that facilities and programmes for the rehabilitation and social reintegration of female juveniles who have been involved in the administration of the juvenile justice system do not exist.

98. The Committee recommends that the State party continue to strengthen its efforts to improve the juvenile justice system in order to ensure the full implementation of juvenile justice standards, in particular article 37 (b), articles 40 and 39 of the Convention as well as the above-mentioned international standards and in the light of the Committee's day of general discussion on the administration of juvenile justice. In this regard, the Committee particularly recommends that the State party:

(a) Abolish the provisions which allow the imposition of a life sentence on children aged 16 or 17 at the time of the commitment of the crime and ensure that children aged 16 and 17 are not considered as adults and are afforded the same protection as younger children under the justice system;

...

(c) Develop and implement alternative sanctions such as community service or restorative justice, in order to make deprivation of liberty a measure of last resort;

(d) Establish a separate facility for custodial care of female juvenile offenders;

(e) Improve the quality of the Boy's Training Centre in terms of its housing conditions and the quality of the care as well as education provided to juveniles in that Centre;

...

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 156, 157 and 192-194.

156. As regards children living in prison with their mothers, the Committee is concerned about access to adequate social and health services for these children and particularly, about their living conditions, which are often poor and fall short of international standards.

157. The Committee recommends that the State party ensure that living conditions and health services in prison are adequate for the child's early development in accordance with article 27 of the Convention and that the principle of the best interests of the child (article 3 of the Convention) is carefully and independently considered by competent child professionals prior to and during their stays with their detained mothers. The Committee

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recommends that alternative care for those children who are separated from their mothers in prison be regularly reviewed ensuring that the physical and mental needs of children are appropriately met. Furthermore, the Committee recommends that the State party ensure that alternative care allows the child to maintain personal relations and direct contact with the mother who remains in prison. The Committee encourages the State party to seek assistance from, among others, UNICEF and other United Nations bodies in this regard.

...

192. The Committee is seriously alarmed at the high level of crime and the high number of persons below 18 years of age in detention in the State party, the persistent violations of the rights of children in conflict with the law, the alleged cases of torture, abuse, including sexual abuse and other forms of degrading treatment of persons below 18 years of age in detention, and the overall deficiencies in the administration of the Philippine juvenile justice system. The Committee notes with deep concern that adequate legislation governing juvenile justice is lacking and that a proposed bill on the Comprehensive Juvenile Justice System and Delinquency Prevention Programme has been pending in Congress since 1999. While noting that an Administrative Order issued in February 2000 designated Regional Trial Courts as Family Courts, the Committee is concerned about the lack of child-sensitive and adequately trained juvenile courts.

193. ...Referring to the provisions on youth detention homes of the Child and Youth Welfare Code and the Rules and Regulations on the Apprehension, Investigation, Prosecution and Rehabilitation of Youth Offenders (Presidential Decree No. 603), the Committee is concerned about the inadequate implementation of these provisions and the placement of persons below 18 years of age together with adults in detention. Unlawful detention of children, street children for instance, for the extended period of time and limited, or lacking access to appropriate legal aid and assistance and adequate social and health services give cause for serious concern. In addition, the Committee is concerned about unreasonable amounts requested for bail, which cause insurmountable financial obstacles for children and their parents, limitations as regards the suspension of sentences and poor detention conditions, including so-called secret cells.

194. The Committee...recommends to the State party in particular that it:

...

(b) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest possible time and in appropriate conditions, and that persons below 18 years of age are not detained with adults;

...

(e) Implement alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;

...

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- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 332, 333, 378 and 380.

332. The Committee is concerned about the significant number of children who are living in adult prisons with their parents, often in poor conditions that fall short of international standards.

333. The Committee recommends to the State party that it review the current practice of children living with their parents in prison, with a view to limiting the stay to instances in which it is in his/her best interest, and to ensuring that the living conditions are suitable for his/her needs for the harmonious development of his/her personality. The Committee also recommends that children of parents in prison should be provided with adequate alternative care, for instance, within the extended family and be allowed regular contact with their parents.

...

378. ...The Committee is...concerned about conditions of detention, and that persons under 18 are in most cases not separated from adults while in detention due to lack of juvenile detention facilities... The Committee is also concerned at the lack of educational facilities in prisons.

...

380. The Committee...recommends the State party, in particular to:

(a) Ensure that detained persons below 18 years are always separated from adults, and that deprivation of liberty is used only as a last resort, for the shortest appropriate time and in appropriate conditions;

(b) Expedite the construction of separate facilities (child correction centre) and separate cells in detention facilities for persons below 18 to ensure that they exist in all districts;

(c) In cases where deprivation of liberty is unavoidable and used as a last resort, for the shortest appropriate time, improve procedures of arrest and conditions of detention and establish special units within the police for the handling of cases of children in conflict with the law;

(d) Ensure that persons under 18 years are not held accountable, detained or prosecuted under anti-terrorism laws;

...

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 663 and 664.

663. ...[T]he Committee...is...concerned at the remaining gaps in issues of defence, prosecution and the definition and implementation of measures or sanctions alternative to

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deprivation of liberty for persons below 18. Furthermore, it is also concerned about:

- (a) The fact that no special places for deprivation of liberty exist for persons below 18 in conflict with the law;
- (b) The poor conditions of detention - especially in police detention centres - including inappropriate cell space and lack of sufficient light and ventilation, inadequate hygienic standards and overcrowding.

664. The Committee...recommends that the State party in particular:

...

- (b) Take all necessary measures to establish separate detention facilities for persons below 18, in accordance with articles 111 and 214 of the Code on Children and Adolescents and with article 37 (c) of the Convention;
- (c) Ensure that deprivation of liberty is used only as a measure of last resort and improve the conditions of detention of persons below 18 - especially in police detention centres - notably by complying with the international standards as to surface area, ventilation, fresh air, natural and artificial light, proper food, drinking water and hygienic conditions;
- (d) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prison guards, and establish an independent child-sensitive and accessible system for the reception and processing of complaints by children;
- (e) Ensure that children deprived of their liberty remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;
- (f) Provide training for penitentiary staff on children's rights and special needs;

...