

# LEGAL RIGHTS - CRIMINAL - Conditions of Arrest and Detention

## II. GENERAL COMMENTS AND RECOMMENDATIONS

- CERD General Recommendation XXX (Sixty-fifth session, 2004): Discrimination Against Non-Citizens, A/59/18 (2004) 93 at para. 22.

...

[The Committee recommends]...that the States parties to the Convention, as appropriate to their specific circumstances, adopt the following measures:

...

22. Introduce in criminal law the provision that committing an offence with racist motivation or aim constitutes an aggravating circumstance allowing for a more severe punishment;

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- ICCPR General Comment 25 (Fifty-seventh session, 1996): Article 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, A/51/40 vol. I (1996) 98 at para. 14.

...

14. In their reports, States parties should indicate and explain the legislative provisions which would deprive citizens of their right to vote. The grounds for such deprivation should be objective and reasonable. If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.

- ICCPR General Comment 28 (Sixty-eighth session, 2000): Article 3: Equality of Rights Between Men and Women, A/55/40 vol. I (2000) 133 at para. 15.

...

15. As regards articles 7 and 10, States parties must provide all information relevant to ensuring that the right of persons deprived of their liberty are protected on equal terms for men and women. In particular, States parties should report on whether men and women are separated in prisons and whether women are guarded only by female guards. States parties should also report about compliance with the rule that accused juvenile females shall be separated from adults and on any difference in treatment between male and female persons deprived of liberty, such as, for example, access to rehabilitation and education programmes and to conjugal and family visits. Pregnant women who are deprived of their liberty should

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receive humane treatment and respect for their inherent dignity at all times surrounding the birth and while caring for their newly-born children; States parties should report on facilities to ensure this and on medical and health care for such mothers and their babies.

- CRC General Comment 2 (Thirty-first session, 2002): The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child, A/59/41 (2004) 82 at para. 19(s).

...

19. The following is an indicative, but not exhaustive, list of the types of activities which NHRIs [national human rights institutions] should carry out in relation to the implementation of children's rights in light of the general principles of the Convention. They should:

...

(s) In accordance with article 3 of the Convention which obliges States parties to "ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision", undertake visits to juvenile homes (and all places where children are detained for reform or punishment) and care institutions to report on the situation and to make recommendations for improvement;

...

- CERD General Recommendation XXVII (Fifty-seventh session, 2000): Discrimination Against Roma, A/55/18 (2000) 154 at para. 13. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- CERD General recommendation XXXI (Sixty-seventh session, 2005): The Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, A/60/18 (2005) 98 at preamble and paras. 5, 20, 23, 26 and 34-39. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- ICCPR General Comment 7 (Sixteenth session, 1982): Article 7: Torture or Cruel, Inhuman or Degrading Treatment or Punishment, A/37/40 (1982) 94 at paras. 1 and 2. For text of General Comment, see **TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**.

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- ICCPR General Comment 8 (Sixteenth session, 1982): Article 9: Right to Liberty and Security of Persons, A/37/40 (1982) 95. For text of General Comment, see **LIBERTY AND SECURITY OF THE PERSON**.
- ICCPR General Comment 9 (Sixteenth session, 1982): Article 10: Humane Treatment of Persons Deprived of Liberty, A/37/40 (1982) 96. For text of General Comment, see **HUMAN DIGNITY**.
- ICCPR General Comment 20 (Forty-fourth session, 1992): Article 7: Replaces General Comment 7 Concerning Prohibition of Torture and Cruel Treatment or Punishment, A/47/40 (1992) 193 at paras. 6, 10 and 11. For text of General Comment, See **TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**.
- ICCPR General Comment 21 (Forty-fourth session, 1992): Replaces General Comment 9 Concerning Humane Treatment of Persons Deprived of Liberty, A/47/40 (1992) 195 at paras. 3, 5 and 7-13. For text of General Comment, see **HUMAN DIGNITY**.
- ICCPR General Comment 29 (Seventy-second session, 2001): Derogations from provisions of the Covenant during a state of emergency, A/56/40 vol. I (2001) 202 at paras. 11, 13(a), 13(b) and 16. For text of General Comment, see **DEROGATIONS**.
- ICESCR General Comment 15 (Twenty-ninth session, 2002): The Right to Water (arts. 11 and 12 of the Covenant), E/2003/22 (2002) 120 at paras. 16(g) and 22. For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- CRC General Comment 6 (Thirty-ninth session, 2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, A/61/41 (2005) 15 at paras. 3 and 63. For text of General Comment, see **CHILDREN'S RIGHTS - GENERAL**.