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IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Costa Rica, CERD, A/57/18 (2002) 21 at para. 80.

80. While commending the efficiency and credibility of the Costa Rican judicial system, the Committee expresses concern at information concerning the lack of equal access to the courts, particularly by minority and ethnic groups. The Committee encourages the State party to continue to make efforts to ensure *de facto* equal access to the courts to all persons, including members of minority and ethnic groups.

- Lithuania, CERD, A/57/18 (2002) 35 at para. 175.

175. The Committee expresses concern in relation to information regarding the discriminatory treatment of Afghan asylum-seekers, and the disregard of basic procedural guarantees. Having taken into account the assurances given by the delegation concerning legislative provisions in this regard, the Committee nevertheless recommends that the State party ensure equal treatment for all asylum seekers, including Afghan nationals, in refugee determination proceedings...

- Republic of Moldova, CERD, A/57/18 (2002) 41 at para. 223.

223. The Committee notes reports according to which, after the tragic events of 11 September 2001 in the United States, a parliamentary inquiry was conducted into the alleged existence of terrorists among students of Arab origin at the International Independent University of Moldova. The State party should ensure that actions taken should follow due process of law and that they avoid any suspicion of racial profiling.

- Switzerland, CERD, A/57/18 (2002) 46 at para. 251.

251. The Committee is concerned at expressions of xenophobic and racist attitudes in naturalization procedures, particularly those subject to popular vote. It is also concerned that according to legislation still in force decisions taken in accordance with such procedures are not subject to legal review. The Committee is of the view that the right to appeal against decisions, in particular arbitrary or discriminatory ones, in matters relating to naturalization has to be made an integral part of the policy on naturalization, currently in

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the process of being amended...

· Côte d'Ivoire, CERD, A/58/18 (2003) 19 at para. 36.

36. The Committee recommends that the State party continue its efforts to adopt legislation or regulations which define the respective spheres of competence of the National Human Rights Commission and the Ombudsman's Office, spell out the procedure for bringing cases before them and determine whether their decisions are binding. More specifically, the Committee invites the State party to strengthen the guarantees of independence of these bodies so that their activities will be effective and credible, particularly for the purposes of mediation. To this end, the State party should take the appropriate measures to inform the public of the remedies available to the victims of acts of discrimination or xenophobia.

· Czech Republic, CERD, A/58/18 (2003) 65 at para. 387.

387. The Committee is encouraged by the preparation of the new Act on Legal Aid, which will facilitate access to justice of victims of discrimination. However, it is concerned at continued reports that judges in criminal proceedings are reluctant to issue findings that crimes are racially motivated. The Committee also regrets the lack of information on specific cases of victims of discrimination having obtained adequate reparation.

The Committee encourages the State party to establish promptly a legal aid system for alleged victims of racism...

ICCPR

· Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at para. 74(8).

(8) The Committee is concerned that in the case of a clash between the Covenant rights and domestic laws the latter might prevail. Neither through examination of the report of the State party nor during the discussion with the delegation could the Committee obtain a clear understanding of how potential conflicts between Covenant rights and domestic laws are resolved.

The State party must ensure the effective implementation of all Covenant rights, in accordance with article 2 of the Covenant and including through independent and impartial courts of law operating in compliance with article 14.

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United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(17), 75(18) and 75(20).

(17) Although the Committee appreciates the recent prohibition on drawing negative inferences from a suspect's silence while his or her lawyer is absent, the Committee remains troubled by the principle that juries may draw negative inferences from the silence of accused persons.

The State party should reconsider, with a view to repealing it, this aspect of criminal procedure, in order to ensure compliance with the rights guaranteed under article 14 of the Covenant.

(18) The Committee remains concerned that, despite improvements in the security situation in Northern Ireland, some elements of criminal procedure continue to differ between Northern Ireland and the remainder of the State party's jurisdiction. In particular, the Committee is troubled that, under the so-called "Diplock court" system in Northern Ireland, persons charged with certain "scheduled offences" are subject to a different regime of criminal procedure, including the absence of a jury. That modified procedure applies unless the Attorney-General certifies, without having to justify or explain, that the offence is not to be treated as a scheduled offence. The Committee recalls its interpretation of the Covenant as requiring that objective and reasonable grounds be provided by the appropriate prosecution authorities to justify the application of different criminal procedure in particular cases.

The State party should carefully monitor, on an ongoing basis, whether the exigencies of the specific situation in Northern Ireland continue to justify any such distinctions. In particular, it should ensure that, in each case where a person is subjected to the "Diplock" jurisdiction, objective and reasonable grounds are provided and that this requirement is incorporated in the relevant legislation (including the Northern Ireland (Emergency Provisions) Act 1996).

...

(20) The Committee is concerned that provisions of the Criminal Procedure and Investigations Act 1996 enable prosecutors to seek a non-reviewable decision by a court to the effect that sensitive evidentiary material, which would otherwise be disclosed to a defendant, is withheld on public interest/immunity grounds. The Committee considers that the State party has failed to demonstrate the necessity of these arrangements.

The State party should review these provisions in the light of the Committee's remarks and previous concluding observations in respect of article 14, in order to ensure that the

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guarantees of article 14 are fully respected.

· United Kingdom of Great Britain and Northern Ireland (Overseas Territories), ICCPR, A/57/40 vol. I (2002) 36 at para. 75(28).

(28) The Committee is concerned that the categories of persons for whose deportation Cayman law provides, in particular "undesirable" or "destitute" persons, are defined in terms that are vague and unclear, and that deportation of such persons may violate articles 17 and 23 of the Covenant. Moreover, the Committee considers that, since deportation occurs pursuant to an order issued by the Governor after having considered a magistrate's report, there is insufficient review of the appropriateness of such a measure in terms of article 13.

The State party should review its law on deportation to provide clear criteria, and effective and impartial review of any deportation decision, in order to ensure compliance with articles 17, 23 and 26.

· Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at para. 76(12).

(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.

· Georgia, ICCPR, A/57/40 vol. I (2002) 53 at para. 78(9).

(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

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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.

· Viet Nam, ICCPR, A/57/40 vol. I (2002) 67 at para. 82(9).

(9) The Committee is concerned that the judicial system remains weak owing to the scarcity of qualified, professionally trained lawyers, lack of resources for the judiciary and its susceptibility to political pressure. The Committee is also concerned that the Supreme People's Court is not independent of government influence. It is further concerned that the judiciary seeks the opinion of the National Assembly's Standing Committee in regard to the interpretation of laws and that the Standing Committee is responsible for setting criteria and instructions which are binding for the judiciary.

In order to implement article 14 of the Covenant, the State party should take effective measures to strengthen the judiciary and to guarantee its independence, and ensure that all allegations of undue pressure on the judiciary are dealt with promptly.

· Egypt, ICCPR, A/58/40 vol. I (2002) 31 at paras. 77(16) and 77(17).

(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.

...
(b) The Committee notes with alarm that military courts and State security courts have jurisdiction to try civilians accused of terrorism although there are no guarantees of those courts' independence and their decisions are not subject to appeal before a higher court (article 14 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.

(17) The Committee is concerned about infringements of the right to freedom of religion or belief.

...
(b) The Committee is also concerned at the pressures applied to the judiciary by extremists claiming to represent Islam, who have even succeeded, in some cases, in imposing on courts their own interpretation of the religion (articles 14, 18 and 19 of the Covenant).

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The State party must...reinforce its legislation, in particular Act No. 3 of 1996, to make it consistent with articles 14, 18 and 19 of the Covenant.

· Togo, ICCPR, A/58/40 vol. I (2002) 36 at para. 78(14).

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

· Estonia, ICCPR, A/58/40 vol. I (2003) 41 at para. 79(13).

(13) While welcoming the precise information provided by the delegation on the procedure related to the determination of refugee status, the Committee remains concerned that the application of the principle of "safe country of origin" may deny the individual assessment of a refugee claim when the applicant is considered to come from a "safe" country.

The State party is reminded that, in order to afford effective protection under articles 6 and 7 of the Covenant, applications for refugee status should always be assessed on an individual basis and that a decision declaring an application inadmissible should not have restrictive procedural effects such as the denial of suspensive effect of appeal (articles 6, 7 and 13 of the Covenant).

· Slovakia, ICCPR, A/58/40 vol. I (2003) 52 at para. 82(14).

(14) The Committee reiterates its concern, expressed in its previous concluding observations, at the fact that civilians may be tried by military courts, albeit in fewer

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situations than earlier (art. 14).

The State party should continue to revise its laws to the effect of excluding civilians from the jurisdiction of military courts.

- Portugal, ICCPR, A/58/40 vol. I (2003) 56 at para. 83(18).

(18) The Committee is concerned that lawyers and medical doctors may be required to give evidence, despite their duty of confidentiality, in cases which are described in very broad terms by the Code of Criminal Procedure (art. 17).

The State party should amend its legislation so that it specifies the precise circumstances in which limitations on the professional privilege of lawyers and medical doctors are imposed.

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at para. 84(10).

(10) While it appreciates the investigations mounted into lawyers, judges and prosecutors with fictitious qualifications so as to ensure that, as required by article 2, paragraph 3, of the Covenant, those involved in the administration of justice are professionally competent, the Committee notes that, despite the large number of cases investigated, there have been only two dismissals.

The State party should pursue the investigations in order to ensure that the judicial system is staffed by people of the appropriate professional level.

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at para. 85(14).

(14) The Committee is concerned about the vagueness of definitions in Israeli counter-terrorism legislation and regulations which, although their application is subject to judicial review, appear to run counter to the principle of legality in several aspects owing to the ambiguous wording of the provisions and the use of several evidentiary presumptions to the detriment of the defendant. This has adverse consequences for the rights protected under article 15 of the Covenant, which is non-derogable under article 4, paragraph 2, of the Covenant.

The State party should ensure that measures designed to counter acts of terrorism, whether adopted in connection with Security Council resolution 1373 (2001) or in the context of the ongoing armed conflict, are in full conformity with the Covenant.

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- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at paras. 64(8) and 64(21).

(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.

...

(21) The Committee is concerned that journalists, researchers and environmental activists have been tried and convicted on treason charges, essentially for having disseminated information of legitimate public interest, and that in some cases where the charges were not proven, the courts have referred the matter back to prosecutors instead of dismissing the charges.

The State party should ensure that no one is subjected to criminal charges or conviction for carrying out legitimate journalistic or investigative scientific work, within the terms covered by article 19 of the Covenant.

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at para. 65(9).

(9) While welcoming the entry into force of the new asylum law, the Committee remains concerned at the short time limits, in particular for the submission of an appeal under the accelerated asylum procedure, which raises concerns regarding the availability of an effective remedy in cases of *refoulement* (arts. 6, 7 and 2, para. 3).

The State party should ensure that the time limits under the accelerated asylum procedure are extended, in particular for the submission of an appeal.

ICESCR

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Croatia, ICESCR, E/2002/22 (2001) 125 at paras. 898 and 911.

898. The Committee is alarmed at the large backlog of cases before the courts, estimated at 1 million cases in a country with a population of about 4.8 million people, which impedes access to justice. The Committee is also concerned that many court decisions that are favourable to minorities, particularly ethnic Serbs, are not implemented by the responsible enforcement agencies. The obstacles faced by many ethnic Serbs with regard to occupancy rights and the difficulty they encounter when seeking redress through the courts is illustrated, in particular, by Application No. 45943/99, *Rudan v. Croatia*, recently decided by the European Court of Human Rights. The facts of that case demonstrate the legal and administrative obstacles facing a Serb family appealing the unilateral termination of occupancy rights. Although the Court declared this case inadmissible *ratione temporis*, the Committee notes that the events detailed in that case have occurred since 1992, when the Covenant was in force in Croatia, and that the situation persists today.

...

911. In view of the very large number of persons affected in the areas of occupancy rights, acquisition of citizenship and other matters resulting from the war and the aftermath of independence, the Committee is of the opinion that the burden on the court system could be significantly reduced by adopting non-discriminatory laws and by streamlining legal and administrative procedures accordingly.

Democratic People's Republic of Korea, ICESCR, E/2004/22 (2003) 71 at paras. 518 and 537.

518. The Committee on Economic, Social and Cultural Rights is concerned, as is the Human Rights Committee in its own concluding observations,^{29/} about the constitutional and other legislative provisions, particularly article 162 of the Constitution, that seriously compromise the impartiality and independence of the judiciary and have an adverse impact on the protection of all human rights guaranteed under the Covenant.

...

537. The Committee recommends that the constitutional and legislative provisions that may compromise or diminish the independence and impartiality of the judiciary be immediately reviewed in order to guarantee its crucial role in the protection of rights covered by the Covenant.

Notes

...

^{29/} See *Official Records of the General Assembly, Fifty-sixth session, Supplement No. 40 (A/56/40)*, para. 86.

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CEDAW

- Zambia, CEDAW, A/57/38 part II (2002) 107 at paras. 250 and 251.

250. The Committee expresses concern that marriage and family relations are governed by dual legal systems of statutory and customary law, and that many of these laws are not in harmony with the Convention. It also notes that customary law is mostly unwritten, often administered by male justices without a legal background, and that discrimination against women is not addressed in their decisions.

251. The Committee recommends that statutory law be reformed and customary law is revised and codified to conform with article 16 of the Convention. It also recommends the introduction of programmes on legal education, gender sensitization and human rights for judges.

- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 355, 356, 359 and 360.

355. While appreciating the fact that funds are available under the Court Challenges Programme for test cases under the equality guarantee in the Canadian Charter of Rights and Freedoms, the Committee is concerned that the Programme applies only to federal laws and programmes. The Committee is also concerned that federal legal aid funds in civil and family law and for legal matters related to poverty issues, in contrast to legal aid for criminal cases, are channelled to the provinces and territories at their discretion. That, in practice, turns out to have a disproportionately restrictive impact on women seeking legal redress as compared with men.

356. The Committee urges the State party to find ways for making funds available for equality test cases under all jurisdictions and for ensuring that sufficient legal aid is available to women under all jurisdictions when seeking redress in issues of civil and family law and in those relating to poverty issues.

...

359. The Committee is concerned about a number of recent changes in British Columbia which have a disproportionately negative impact on women, in particular aboriginal women. Among these changes are: a cut in funds for legal aid and welfare assistance,

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including changes in eligibility rules; a cut in welfare assistance; the incorporation of the Ministry of Women's Equality under the Ministry of Community, Aboriginal and Women's Services; the abolition of the independent Human Rights Commission; the closing of a number of courthouses; and the proposed changes regarding the prosecution of domestic violence as well as a cut in support programmes for victims of domestic violence. 360. The Committee, through the State party, urges the government of British Columbia to analyse its recent legal and other measures as to their negative impact on women and to amend the measures, where necessary.

CAT

- Russian Federation, CAT, A/57/44 (2002) 42 at para. 89.

89. The Committee notes the following positive developments:

...

(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;

...

- Saudi Arabia, CAT, A/57/44 (2002) 48 at para. 99.

99. The Committee welcomes the following:

...

(b) Legal developments designed to enhance the rule of law and the proper administration of justice that have occurred since preparation of the report, such as aspects of the newly promulgated Code of Civil Procedure, Code of Criminal Procedure and Code of Practice for Lawyers. The Committee welcomes, in particular, that the Code of Criminal Procedure guarantees every accused person the right to avail himself or herself of the services of a lawyer at all stages of an investigation and trial;

...

- Cyprus, CAT, A/58/44 (2002) 21 at para. 33.

33. The Committee welcomes the recent legislative, administrative and institutional

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developments that took place in the State party since the consideration of its previous periodic report, namely:

...

(b) The adoption of the Protection of Witnesses Law by the Parliament with a view to securing anonymity of witnesses;

...

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

41. The Committee is concerned about the following:

...

(g) The fact that victims of torture and ill-treatment have no direct access to the courts to lodge complaints against law enforcement officials;

(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:

...

(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;

...

(l) Establish the State's jurisdiction over all persons alleged to be responsible for torture who are present in the country and are not extradited to other States in order to be brought to justice, in accordance with the provisions of articles 5 to 8 of the Convention;

...

(n) Establish precise rules and standards to enable the victims of torture and ill-treatment to obtain full redress, while avoiding any insufficiently justified disparities in the compensation which is granted;

...

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

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

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aspects of the Constitution:

...

(c) It requires the State to investigate and impose penalties for human rights offences, declares that action to punish them is not subject to a statute of limitations and excludes any measure implying impunity, such as an amnesty or a general pardon;

(d) It requires offences concerning human rights violations and crimes against humanity to be heard in ordinary courts;

...

(h) It makes compulsory the extradition of persons charged with human rights offences and makes provision for a brief, public, oral procedure for trying them.

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

98. The Committee is concerned about the following:

...

(g) The ineffective functioning of the criminal justice system, in particular the lack of independence of the judiciary as well as its inefficiency;

(h) The importance given to confessions in criminal proceedings and the reliance of the police and the judiciary on confessions to secure convictions;

...

99. The Committee recommends that the State party:

...

(b) Take effective measures to establish and ensure a fully independent and professional judiciary in conformity with international standards, notably the Basic Principles on the Independence of the Judiciary, if necessary by calling for international cooperation;

...

(f) Take measures to ensure that evidence obtained under torture is not invoked in court;

...

(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;

...

· Iceland, CAT, A/58/44 (2003) 43 at para. 105.

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.

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

121. The Committee expresses concern about:

...

(d) Allegations that despite the number of complaints, the prosecution and punishment of members of security forces for torture and ill-treatment are rare, proceedings are exceedingly long, sentences are not commensurate with the gravity of the crime, and officers accused of torture are rarely suspended from duty during the investigation;

...

123. The Committee recommends that the State party:

...

(b) Take the necessary measures to guarantee that prompt, impartial and full investigations into the numerous allegations of torture and ill-treatment are carried out, and to ensure in this connection that an efficient and transparent complaint system exists;

(c) Repeal the statute of limitation for crimes involving torture, expedite the trials and appeals of public officials indicted for torture or ill-treatment, and ensure that members of the security forces under investigation or on trial for torture or ill-treatment are suspended from duty during the investigation and dismissed if they are convicted;

...

(g) Review the current legislation and practice in order to ensure that the expulsion of irregular aliens is carried out with full respect for the legal guarantees required by international human rights standards, including the Convention;

...

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

129. The Committee is concerned about:

...

(g) The reform on 23 April 2003 of the rules governing the exercise of universal jurisdiction by Belgian courts in cases involving serious violations of international humanitarian law, authorizing the Minister of Justice in some circumstances to remove a Belgian judge from a case;

...

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(o) The fact that rules on the exclusion of evidence obtained as a result of torture have emerged only from the decisions of the courts, and that judges seem to retain discretionary power in that regard.

...

131. The Committee recommends that the State party:

...

(f) Ensure respect for the principle of the independence of Belgian courts from the executive branch, in particular where the exercise of universal jurisdiction in relation to serious violations of international humanitarian law is concerned;

...

(n) Clearly state in national legislation that evidence obtained under torture is automatically inadmissible and must therefore not be submitted for consideration by the court itself.

· Republic of Moldova, CAT, A/58/44 (2003) 53 at paras. 138 and 139.

138. The Committee expresses concern about:

...

(h) Allegations of a dysfunctional criminal justice system, apparently caused in part by a lack of independence of the procuracy and the judiciary;

(i) Allegations concerning the heavy emphasis put on confessions as a primary source of evidence in criminal proceedings;

...

139. The Committee recommends that the State party:

...

(f) Take effective measures to ensure a fully independent procuracy and an independent judiciary in conformity with the United Nations Basic Principles on the Independence of the Judiciary, if necessary by calling for international cooperation;

(g) Take measures to ensure that evidence obtained under torture is not invoked in court;

...

· Cameroon, CAT, A/59/44 (2003) 23 at paras. 43, 46 and 47.

43. The Committee is...concerned about:

(a) The jurisdiction given to military courts to try civilians for offences against the laws on military weapons and weapons assimilated thereto;

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...

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

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

...

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

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

47. The Committee further recommends that the Cameroonian authorities should:

...

(b) Restrict the jurisdiction of the military courts to military offences only;

...

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

68. The Committee...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;

(d) The allegations and information indicating:

(i) That some prosecutors in the Human Rights Unit of the Public Prosecutor's Office have been forced to resign and that members of the Unit have been threatened in connection with their investigation of cases of human rights violations;

(ii) Inadequate protection against rape and other forms of sexual violence, which

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are allegedly frequently used as forms of torture or ill-treatment. The Committee further expresses its concern at the fact that the new Military Penal Code does not expressly exclude sexual offences from the jurisdiction of the military courts;

(iii) The fact that the military courts are allegedly still, despite the promulgation of the new Military Penal Code and the Constitutional Court's decision of 1997 that crimes against humanity did not fall within the jurisdiction of the military courts, investigating offences that are totally excluded from their competence, such as torture, genocide and forced disappearance in which members of the police or armed forces are suspected of having been involved;

(iv) The widespread, serious attacks on human rights defenders, who are playing an essential role in reporting torture and ill-treatment; in addition, the repeated attacks on members of the judiciary, threatening their independence and physical integrity;

...

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 also, in the light of its obligation to prevent torture and ill-treatment under the Convention:

...

(ii) The adoption of measures that appear to give military forces powers of criminal investigation under which suspects can be detained for long periods without judicial control;

(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;

...

(d) Ensure that the staff of the Human Rights Unit of the Public Prosecutor's Office are able to carry out their duties independently, impartially and in safety and provide the Unit with the resources needed to do its work effectively;

(e) Investigate, prosecute and punish those responsible for rape and other forms of sexual violence, including rape and sexual violence that occur in the framework of operations against illegal armed groups;

...

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(g) Respect the provisions of the Military Penal Code that exclude cases of torture from the jurisdiction of the military courts and ensure that those provisions are respected in practice;

(h) Take effective measures to protect human rights defenders against harassment, threats and other attacks and report on any judicial decisions and any other measures taken in that regard. The Committee also recommends the adoption of effective measures for the protection of the physical integrity and independence of members of the judiciary;

...

CRC

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 456 and 457.

456. The Committee is concerned that in the case of Muslims the Shariah Court system - which applies Shariah personal law (marriage, divorce, custody and guardianship, inheritance, maintenance) and criminal law - lacks many basic and minimum international safeguards and procedures, including those contained in the Convention, without which the right to a fair trial or adequate access to the courts can be guaranteed in practice. In particular, the Committee is concerned that:

(a) Shariah remains uncodified and is applied in its classical sense without reference to State legislation; and

(b) Because it is uncodified the system may be subject to arbitrariness, inconsistencies, and lack of uniformity between judgements between different cadis, or judges, between Shi'a and Sunni departments and disparities with decisions of the secular courts.

457. The Committee recommends that the State party:

(a) Conduct a comprehensive review of its domestic laws, administrative regulations and procedural rules, including Shariah, to ensure that they conform to international human rights standards, including the Convention;

(b) Ensure that laws are sufficiently clear and precise, are published, and are accessible to the public.

- Belgium, CRC, CRC/C/118 (2002) 29 at paras. 99 and 100.

LEGAL RIGHTS - RIGHT TO A FAIR AND PUBLIC HEARING

99. The Committee welcomes the information provided by the State party on draft laws concerning the rights of the child, including with respect to adoption, guardianship for unaccompanied minors, access to courts and guarantees of due process.

100. The Committee recommends that the State party:

(a) Rigorously review these laws and ensure that they and other laws concerning children, as well as administrative regulations, are rights-based and conform to international human rights standards, including the Convention;

(b) Ensure that adequate provision is made for their effective implementation, including budgetary allocation;

(c) Ensure their speedy promulgation.

· Tunisia, CRC, CRC/C/118 (2002) 68 at para. 262.

262. In light of the previous recommendations ([CRC/C/15/Add.39], para. 10), the Committee notes with satisfaction the withdrawal, on 1 March 2002, of the reservation with regard to article 40, paragraph 2 (b)(v), and the declaration in which the State party declared that "its undertaking to implement the provisions of this Convention shall be limited by the means at its disposal."

· 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:

...

(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;

...

510. ...[T]he Committee recommends that the State party:

...

(c) Ensure the full implementation of the right to a fair trial, including the right to legal or other appropriate assistance;

...