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IV. CONCLUDING OBSERVATIONS

CERD

- Ukraine, CERD, A/56/18 (2001) 61 at para. 363.

The continuing efforts of the State party to reform its legislation, including its Criminal Code, the abolition of the death penalty and the creation of an appeals court system, and in particular the State party's recent adoption of the Law of Refugees of January 2000, the Citizenship Law of January 2001 and the Law of Immigration of June 2001 are noted with satisfaction.

- United States of America, CERD, A/56/18 (2001) 64 at para. 396.

It is noted with concern that, according to the Special Rapporteur of the United Nations Commission on Human Rights on extrajudicial, summary or arbitrary executions, there is a disturbing correlation between race, both of the victim and the defendant, and the imposition of the death penalty, particularly in states like Alabama, Florida, Georgia, Louisiana, Mississippi and Texas. The State party is urged to ensure, possibly by imposing a moratorium, that no death penalty is imposed as a result of racial bias on the part of the prosecutors, judges, juries and lawyers or as a result of the economically, socially and educationally disadvantaged position of the convicted persons.

ICCPR

- Algeria, ICCPR, A/47/40 (1992) 61 at para. 297.

It is contrary to the Covenant to impose the death penalty for crimes which are of an economic nature.

- Republic of Korea, ICCPR, A/47/40 (1992) 113 at paras. 517 and 518.

Paragraph 517

Concern is expressed at the high number of offences liable to the death penalty. In particular, the inclusion of robbery among the offences carrying the death penalty clearly contravenes article 6.

Paragraph 518

Measures should be taken to reduce the cases in which the death penalty is applied.

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- Belarus, ICCPR, A/47/40 (1992) 124 at para. 560.

The retention of the death penalty for many offences, even though limited in application, is of concern.

- Mongolia, ICCPR, A/47/40 (1992) 134 at para. 601.

Grounds for invoking the death penalty are currently too broad to be in conformity with article 6 of the Covenant and the number of executions from capital punishment is alarmingly high.

- Senegal, ICCPR, A/48/40 vol. I (1993) 23 at paras. 112 and 113.

Paragraph 112

The Committee does not agree with the Government's contention that the provisions of the Covenant must be interpreted and applied against the background of the conditions prevailing in the country. Rather, all efforts should be made to bring those conditions into conformity with internationally agreed human rights standards. Certain provisions of penal legislation are not in conformity with article 6 of the Covenant, especially in respect of the application of the death penalty to minors. To achieve full compliance with article 4 of the Covenant, greater efforts are also needed to ensure the proper protection of human rights under a state of emergency.

Paragraph 113

Laws relating to states of emergency, the protection of the right to life and the death penalty, forced labour, the treatment of detainees and their access to a lawyer and freedom of expression, particularly restrictions imposed on the exercise by journalists of this right, should be brought into conformity with articles 4, 6, 8 and 19 of the Covenant, respectively. The proclamation of any state of emergency must be notified to the Secretary-General of the United Nations in a timely manner.

- Luxembourg, ICCPR, A/48/40 vol. I (1993) 30 at para. 143.

Article 18 of the Constitution, which still presupposes the existence of the death penalty, is of concern.

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at paras. 255, 256 and 265.

Paragraph 255

The extremely high number of death sentences that were pronounced and carried out, many of which

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have resulted from trials in which the guarantees of due process of law had not been properly applied, is deplored. In the light of the provision of article 6 of the Covenant, requiring States parties that have not abolished the death penalty to limit it to the most serious crimes, the imposition of that penalty for crimes of an economic nature, for corruption and for adultery, or for crimes that do not result in loss of life, is considered to be contrary to the Covenant. That a number of executions have taken place in public is also deplored.

Paragraph 256

The fact that a death sentence has been pronounced, without trial, in respect of a foreign writer, Mr. Salman Rushdie, for having produced a literary work and that general appeals have been made or condoned for his execution, even outside the territory of the Islamic Republic of Iran is condemned. The fact that the sentence was the result of a *fatwa* issued by a religious authority does not exempt the State party from its obligation to ensure to all individuals the rights provided for under the Covenant, in particular articles 6, 9, 14 and 19.

Paragraph 265

Domestic laws should be revised with a view to curtailing the number of offences currently punishable by the death penalty and to reducing the number of executions. Public executions should be avoided and the accused should, in all cases, be provided with all necessary guarantees, including the right to a fair trial as provided for under article 14 of the Covenant.

- Egypt, ICCPR, A/48/40 vol. I (1993) 139 at para. 705.

The many severe measures taken by the Egyptian Government to combat terrorism in the country are of concern. The measures taken to do so should not prejudice the enjoyment of the fundamental rights enshrined in the Covenant, in particular, its articles 6, 7 and 9. The Committee is particularly disturbed by the adoption in 1992 of law No. 97 on terrorism, which contains provisions contrary to articles 6 and 15 of the Covenant. The definition of terrorism contained in that law is so broad that it encompasses a wide range of acts of differing gravity. The definition in question should be reviewed by the Egyptian authorities and stated much more precisely, especially in view of the fact that it enlarges the number of offences which are punishable with the death penalty.

- Japan, ICCPR, A/49/40 vol. I (1994) 23 at paras. 109 and 115.

Paragraph 109

The number and nature of crimes punishable by death penalty under the Japanese Penal Code is disturbing. The terms of the Covenant tend towards the abolition of the death penalty and those States which have not already abolished the death penalty are bound to apply it only for the most serious crimes. In addition, there are matters of concern relating to conditions of detainees. In

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particular, the undue restrictions on visits and correspondence and the failure of notification of executions to the family are incompatible with the Covenant.

Paragraph 115

Measures should be taken towards the abolition of the death penalty and, in the meantime, the penalty should be limited to the most serious crimes; the conditions of death row detainees should be reconsidered; and preventive measures of control against any kind of ill-treatment of detainees should be further improved.

- Cameroon, ICCPR, A/49/40 vol. I (1994) 36 at paras. 191 and 202.

Paragraph 191

In spite of a recent reduction, the number of offences punishable by the death penalty in the Criminal Code is still excessive, in particular aggravated theft or traffic in toxic or dangerous wastes. The number of death sentences handed down by the courts is also of concern.

Paragraph 202

The authorities of Cameroon should revise the Criminal Code with a view to restricting the number of offences carrying the death penalty.

See also:

- Togo, ICCPR, A/49/40 vol. I (1994) 44 at para. 264.
- Jordan, ICCPR, A/49/40 vol. I (1994) 41 at para. 233.

The excessive number of offences punishable by the death penalty and the number of death sentences handed down by the Courts are of concern.

See also:

- Togo, ICCPR, A/49/40 vol. I (1994) 44 at para. 254.
- Italy, ICCPR, A/49/40 vol. I (1994) 47 at para. 283.

In view of the fact that criminal legislation does not provide for the death penalty, the State party is encouraged to take the necessary steps to accede to the Second Optional Protocol to the Covenant.

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- Azerbaijan, ICCPR, A/49/40 vol. I (1994) 50 at paras. 299 and 306.

Paragraph 299

The number of death sentences pronounced and the lack of any appeal procedure for persons under sentence of death are matters of concern.

Paragraph 306

The use of the death penalty should be reduced and provision should be made for the right to appeal against a death sentence.

- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at paras. 317 and 332.

Paragraph 317

It is of concern that the domestic law allows application of the death penalty to persons between 16 and 18 years of age, in conflict with the provisions of article 6, paragraph 5, of the Covenant. It is noted, however, that the death penalty is not applied in practice.

Paragraph 332

With respect to article 24 of the Covenant, existing laws concerning the protection of children should be reviewed and amended as necessary to conform with the requirements of the Covenant. In particular, the minimum age for marriage, criminal responsibility, penal sanction and the imposition of the death penalty should be changed to conform with present international standards and the spirit of article 24, paragraph 1, of the Covenant.

- Yemen, ICCPR, A/50/40 vol. I (1995) 49 at para. 262.

The Government should review its policy on the death penalty with a view to its eventual abolition.

- United States of America, ICCPR, A/50/40 vol. I (1995) 52 at paras. 281 and 296.

Paragraph 281

The excessive number of offences punishable by the death penalty in a number of states, the number of death sentences handed down by courts, and the long stay on death row which, in specific instances, may amount to a breach of article 7 of the Covenant are of concern. The recent expansion of the death penalty under federal law and the re-establishment of the death penalty in certain states is deplored. The provisions in the legislation of a number of states which allow the death penalty to be pronounced for crimes committed by persons under 18 and the actual instances where such sentences have been pronounced and executed is also deplored. It is also regretted that, in some

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cases, there appears to be a lack of protection from the death penalty of those who are mentally retarded.

Paragraph 296

The State party should revise federal and state legislation with a view to restricting the number of offences carrying the death penalty strictly to the most serious crimes, in conformity with article 6 of the Covenant and with a view eventually to abolishing it. The authorities are exhorted to take appropriate steps to ensure that persons are not sentenced to death for crimes committed before they were 18. The determination of methods of execution must take into account the prohibition against causing avoidable pain and all necessary steps should be taken to ensure respect of article 7 of the Covenant.

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at paras. 316 and 327.

Paragraph 316

The current trend in Ukraine to impose and carry out an increasing number of death sentences, and the inhumane circumstances in which those sentences are carried out is of deep concern. It is recalled that under article 6 of the Covenant a sentence of death may be imposed only for the most serious crimes.

Paragraph 327

The Ukraine should study measures to limit the categories of crimes punishable by death to the most serious offences, in conformity with article 6 of the Covenant, with a view to its prospective abolition, and should make, when appropriate, more extensive use of the rights of commutation or pardon.

- Latvia, ICCPR, A/50/40 vol. I (1995) 62 at paras. 346 and 355.

Paragraph 346

Although satisfied at the impending changes in the Criminal Code which are expected to abolish the death penalty, it is of concern that the death penalty can be imposed for crimes which cannot be qualified as the most serious crimes under article 6 of the Covenant.

Paragraph 355

While the steps envisaged towards the abolition of the death penalty are endorsed, a firm policy should be adopted aiming at commuting, during the interim period, all death sentences to life imprisonment.

- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at paras. 376 and 395.

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Paragraph 376

Although there is a draft Criminal Code before the Federal Assembly that would reduce the number of crimes that may result in the imposition of the death penalty, the wide range of crimes still punishable by the death penalty is of concern. Moreover, while the number of persons actually executed has declined dramatically since 1993, sentencing continues, which has resulted in a large and growing number of persons on death row.

Paragraph 395

The Government should reduce substantially the number of crimes for which the death penalty may be imposed, in accordance with article 6 of the Covenant, with a view to its eventual elimination.

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at paras. 449 and 466.

Paragraph 449

With reference to article 6 of the Covenant, it is of concern that under Sri Lankan law, the death penalty may be imposed for crimes such as abetting suicide, drug-related offences, and certain offences against property. Some of these offences do not appear to be the most serious offences under article 6 of the Covenant.

Paragraph 466

The State party should ensure that the death penalty may only be imposed for the most serious of crimes as required by article 6 of the Covenant. Moreover, in view of the fact that the death penalty has not been carried out since 1977, the State party should consider taking measures for the abolition of the death penalty and the ratification of or accession to the Second Optional Protocol.

- Estonia, ICCPR, A/51/40 vol. I (1996) 19 at paras. 115 and 129.

Paragraph 115

It is of concern that the death penalty can still be imposed in Estonia for crimes that cannot be qualified as "the most serious crimes" under article 6 of the Covenant. Moreover, it is noted with concern that, despite the drafting of a new Criminal Code that will abolish capital punishment, recent amendments to the current Criminal Code have added two more crimes to the list of those punished by capital punishment.

Paragraph 129

The Government should reduce substantially the number of crimes for which the death penalty may be imposed, in accordance with article 6 of the Covenant, pending the adoption of the new Criminal Code that will abolish the death penalty.

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- Nigeria, ICCPR, A/51/40 vol. I (1996) 37 at paras. 282 and 297.

Paragraph 282

The Committee is concerned that, under Nigerian law, the death penalty may be imposed for crimes which do not constitute "the most serious offences" as required by article 6 of the Covenant and that the number of death sentences passed and actually carried out is very high. The fact that sentences of death are passed without the safeguard of fair trial violates the provisions of articles 14 (1) and 6 of the Covenant. Public executions are also incompatible with human dignity.

Paragraph 297

Abolition of the death penalty should be considered. Until its abolition the State party must ensure that the application of the death penalty is strictly limited to the most serious crimes as required by article 6 (2) of the Covenant, and that the number of crimes for which the death penalty is imposed is reduced to the minimum. Urgent steps should be taken to ensure that persons facing trial are afforded all the guarantees of a fair trial as explicitly provided for in article 14 (1), (2) and (3) of the Covenant and can have their conviction and sentence reviewed by a higher tribunal in accordance with article 14 (5) of the Covenant.

- Gabon, ICCPR, A/52/40 vol. I (1997) 24 at paras. 127 and 137.

Paragraph 127

It is regretted that despite the Government's declared policy of not applying the death penalty, no legal steps have yet been taken to abolish it.

Paragraph 137

Abolition of the death penalty and accession to the Second Optional Protocol to the Covenant should be considered.

- Georgia, ICCPR, A/52/40 vol. I (1997) 40 at para. 240.

In spite of the reduction in the number of offences carrying the death penalty, these are still too numerous and some of them do not come within the category of the most serious crimes envisaged in article 6 of the Covenant. The fact that some capital sentences appear to have been imposed in cases where confessions were obtained under torture or duress or following trials where the guarantees provided under article 14 of the Covenant were not respected, particularly the right to have a case reviewed by a higher court (art. 14, para. 5, of the Covenant), is deplored.

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- Portugal (Macau), ICCPR, A/52/40 vol. I (1997) 50 at para. 313.

The fact that the death penalty has been abolished in Macau, including for military crimes, is welcomed. It is noted with appreciation that the domestic law as interpreted by the Superior Court of Justice prohibits extradition to a country where the person concerned may be sentenced to death.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at paras. 350 and 351.

Paragraph 350

Deep concern is expressed over the extension of the number of crimes carrying the death penalty, which, bearing in mind that article 6 of the Covenant limits the circumstances under which capital punishment may be imposed, suggesting that they be submitted to continuing review with a view to the abolition of capital punishment, is not compatible with that article.

Paragraph 351

The State party should review its policy *vis-à-vis* capital punishment with a view, first, to its limitation and, ultimately, its abolition.

- India, ICCPR, A/52/40 vol. I (1997) 67 at para. 435.

The State party should legally abolish the imposition of the death penalty on minors and limit the number of offences carrying the death penalty to the most serious crimes, with a view to its ultimate abolition.

- Jamaica, ICCPR, A/53/40 vol. I (1998) 15 at para. 82.

The state of current legal aid representation remains of concern. This is particularly disturbing for cases involving capital punishment, where the unavailability of legal aid amounts to a violation of article 6 *juncto* article 14 of the Covenant. Therefore, the State party should monitor, on a continuing basis, the availability and quality of legal aid representation, and should ensure that experienced counsel is assigned to individuals accused of capital and other serious offences. It is emphasized that adequate remuneration of lawyers acting under the Poor Prisoners' Defence Act at all stages of arrest and subsequent proceedings would greatly assist in providing a proper defence for clients. Legal aid should be available for obtaining the presence of defence witnesses for the purposes of trials.

- Iraq, ICCPR, A/53/40 vol. I (1998) 18 at paras. 99, 100, 104 and 105.

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Paragraph 99

The increase in the categories of crimes punishable by the death penalty, pursuant to Revolutionary Command Council Decrees No. 13 of 1992, No. 9 of 1993, Nos. 86, 95, 179 and 118 of 1994, and No. 16 of 1995, and that the new categories include non-violent and economic infringements are matters of concern. These measures are incompatible with Iraq's obligations under the Covenant to protect the right to life. Therefore, Iraq should abolish the death penalty for crimes which are not among the most serious crimes, in accordance with article 6, paragraph 2, of the Covenant, and the total abolition of the death penalty should be considered. In this regard, careful consideration should be given to the observations in the Committee's General Comment No. 6 on the right to life, and in particular those concerning the restricted scope of the expression "most serious crimes".

Paragraph 100

Concern is expressed over the fact that Revolutionary Command Council Decree No. 115 of 25 August 1994 violates the provisions of article 6, paragraph 2, of the Covenant, which restricts the application of the death penalty to the "most serious crimes", by stipulating that the death penalty will be imposed on persons who have evaded military service several times, and that it contains retroactive provisions, contrary to article 15 of the Covenant. Therefore, that the application of this decree should be suspended without delay and steps should be taken to repeal it.

Paragraph 104

It is noted with concern that special courts, which may impose the death penalty, do not provide for all procedural guarantees required by article 14 of the Covenant, and in particular the right of appeal. It is also noted that in addition to the list of offences which are under the jurisdiction of the special courts, the Minister of the Interior and the Office of the President of the Republic have discretionary authority to refer any other cases to these courts. In that regard, courts exercising criminal jurisdiction should not be constituted other than by independent and impartial judges, in accordance with article 14, paragraph 1, of the Covenant. The jurisdiction of such courts should be strictly defined by law and all procedural safeguards protected by article 14, including the right of appeal, should be fully respected.

Paragraph 105

The severe restrictions on the right to express opposition to or criticism of the Government or its policies are of concern. Concern is also expressed over the law which imposes life imprisonment for insulting the President of the Republic, and in certain cases death. The law also imposes severe punishments for vaguely defined crimes that are open to wide interpretation by the authorities, such as writings detrimental to the President. Such restrictions on freedom of expression, which effectively prevent the discussion of ideas or the operation of political parties in opposition to the ruling Ba'ath party, constitute a violation of articles 6 and 19 of the Covenant and impede the implementation of articles 21 and 22 of the Covenant, which protect the rights to freedom of peaceful assembly and association. Therefore, penal laws and decrees which impose restrictions on the rights to freedom of

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expression, peaceful assembly and association should be amended so as to comply with articles 19, 21 and 22 of the Covenant.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 119.

The imposition of the death penalty for offences which cannot be characterized as the most serious, including apostasy, committing a third homosexual act, illicit sex, embezzlement by officials, and theft by force, is incompatible with article 6 of the Covenant. Moreover, some forms of execution fail to comply with the prohibition against cruel, inhuman or degrading treatment or punishment, especially for women, as contained in article 7 of the Covenant. Therefore, the death penalty, if used at all, should be applicable only to the most serious crimes, in accordance with article 6, and should be repealed for all other crimes. Any imposition of the death penalty should comply with the requirements of article 7.

- Belarus, ICCPR, A/53/40 vol. I (1998) 26 at para. 144.

That the number of crimes for which the death penalty is applicable under the Criminal Code is still very high, and that decrees defining new crimes punishable by death, such as Presidential Decree No. 21 of 21 October 1997, have recently been enacted are noted with concern. The very high number of death sentences actually carried out is of serious concern. Furthermore, the secrecy surrounding the procedures relating to the death penalty at all stages is of concern. Therefore, the application of the death penalty should be restricted to the most serious crimes and its abolition should be considered by the State party at an early date. To that end, a thorough review of relevant legislation and decrees should be undertaken to ensure their compliance with the Covenant and, in so doing, due account should be taken of the Committee's General Comment No. 6 (16) and of the Committee's jurisprudence establishing that the imposition of the death penalty following a trial that does not comply with the requirements of article 14 of the Covenant violates article 6.

- Italy, ICCPR, A/53/40 vol. I (1998) 50 at para. 331.

The Committee is pleased to note that the Constitutional Court in 1996 reinforced the right to life by declaring unconstitutional the law ratifying a treaty of extradition on the grounds that there was no absolute guarantee in law that the person concerned would not be executed.

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

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

- United Republic of Tanzania, ICCPR, A/53/40 vol. I (1998) 57 at para. 401.

Despite the problems concerning the volumes of refugees entering and remaining in the country, no refugee should be returned to another State unless it is certain that, once there, he or she shall not be executed or subjected to torture or other forms of inhuman treatment.

- Armenia, ICCPR, A/54/40 vol. I (1999) 29 at para. 106.

The new Criminal Code providing for the abolition of the death penalty is noted, and the death sentences of all persons currently on death row should be immediately commuted.

- Libyan Arab Jamahiriya, ICCPR, A/54/40 vol. I (1999) 32 at para. 128.

The excessively vague wording of article 4 of the Promotion of Freedom Act, which stipulates that the death penalty may be imposed "on a person whose life endangers or corrupts society", and similar wording in the Great Green Document, leads to the imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including political and economic offences, in violation of article 6, paragraph 2, of the Covenant. Furthermore, the Committee deplores that retribution is legally accepted as a ground for the imposition of the death penalty. Urgent steps should be taken to reduce the number and type of crimes entailing capital punishment and to repeal all provisions incompatible with article 6 of the Covenant.

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at para. 163.

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

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- Lesotho, ICCPR, A/54/40 vol. I (1999) 51 at para. 258.

That capital punishment is no longer carried out in practice is noted and its early abolition is recommended.

- Cameroon, ICCPR, A/55/40 vol. I (2000) 36 at paras. 201 and 202.

Paragraph 201

Concern is expressed that the death penalty is still being imposed, and that some of the crimes still punishable by the death penalty, such as secession, espionage or incitement to war, are loosely defined.

Paragraph 202

The State party is urged to ensure that the death penalty may only be imposed for the most serious crimes and should consider abolishing capital punishment altogether.

- Hong Kong Special Administrative Region (China), ICCPR, A/55/40 vol. I (2000) 40 at para. 246.

Deportation procedures must provide effective protection against the risk of imposition of the death penalty or of torture or inhuman, cruel or degrading treatment.

- Guyana, ICCPR, A/55/40 vol. I (2000) 53 at para. 354.

Abolition of the death penalty should be considered. Measures must be taken to ensure strict compliance with procedural safeguards in all criminal cases.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 391 and 392.

Paragraph 391

While the current moratorium on carrying out sentences of death is noted, the current situation with regard to capital punishment and the number of persons currently detained under sentences of death is of concern.

Paragraph 392

While the State party is commended for having imposed a moratorium on the execution of capital punishment, it is urged to extend it indefinitely and to commute the sentences of those persons

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currently on death row. The State party is commended for abolishing the imposition of the death penalty against women, but the retention of the death penalty for men alone is incompatible with its obligations under articles 2, 3 and 26 of the Covenant. Equality should be ensured by abolishing the death penalty for all persons.

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 464 and 465.

Paragraph 464

Serious concern is expressed over the large number of offences for which the death penalty can be imposed, including very vague categories of offences relating to internal and external security as well as drug-related crimes. It is regretted that there are 28 persons currently on death row and that death sentences have continued to be carried out since the Covenant entered into force in Kuwait.

Paragraph 465

The State party should ensure that the provisions of article 6 of the Covenant are strictly observed and that the death penalty is not imposed except for crimes that can be seen to be the most serious crimes, following proceedings in which all the guarantees for a fair trial under article 14 of the Covenant are observed. The State party is invited to consider the abolition of the death penalty, in the spirit of article 6, paragraph 6, of the Covenant.

- Trinidad and Tobago, ICCPR, A/56/40 vol. I (2001) 31 at para. 72(7).

The denunciation of the Optional Protocol is profoundly regretted. In the light of the continued existence of the death penalty, and despite assurances by the delegation that proposals to extend the death penalty have been rejected, it is recommended that:

- (a) In relation to all persons accused of capital offences, the State party should ensure that every requirement of article 6 is strictly complied with;
- (b) In the event of a reclassification of murder being brought into effect for persons tried and convicted thereafter, those already convicted of murder should be entitled to similar reclassification, in accordance with article 15.1; and
- (c) The assistance of counsel should be ensured, through legal aid as necessary, immediately on arrest and throughout all subsequent proceedings to persons accused of serious crimes, in particular in cases of offences carrying the death penalty.

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at para. 75(12).

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The State party's declared policy of not applying the death penalty, and that no one has been executed since 1981, is noted. The State party is invited to take the required steps to accede to the Second Optional Protocol to the Covenant on the abolition of the death penalty.

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at paras. 79(6), 79(10) and 79(13).

Paragraph 79(6)

The State party's refusal to reveal the number of persons who have been executed or condemned to death, and the grounds for their conviction, both during the time covered by the report, and during the time elapsed since then, is deplored.

Paragraph 79(10)

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

Paragraph 79(13)

That there is no prohibition on the extradition or expulsion of individuals, including those seeking asylum in Uzbekistan, to countries where they may be exposed to the risk of the death penalty, torture or to cruel, inhuman or degrading treatment or punishment, is of concern. The State party should ensure that individuals who claim that they will be subjected to torture, inhuman or degrading treatment, or the death penalty in the receiving state, have the opportunity to seek protection in Uzbekistan or at least assured of *non-refoulement* (arts. 6 and 7 of the Covenant).

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at para. 80(6).

The constitutional provision abrogating the death penalty is welcomed and the State party is commended for its accession to the Second Optional Protocol to the Covenant.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at paras. 81(8) and 81(9).

Paragraph 81(8)

Note is taken of the delegation's explanations that the death penalty is rarely imposed and even more rarely carried out. Serious concern still remains at the number of offences punishable by the death penalty and at the absence of any information on the number of death sentences imposed in the past 10 years and the number of executions carried out during the same period. This situation is

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particularly disturbing in the light of precise, consistent reports alleging that a large number of death sentences have been passed and executions carried out following unfair trials in which the accused were sentenced although evidence was used that had been obtained through confessions which had been made under torture. The State party is called upon to ensure respect for articles 6, 7 and 14 (3) (g) of the Covenant and the number of offences punishable by the death penalty should be reduced.

Paragraph 81(9)

It is of concern that the characterization of some political offences, which are punishable by the death penalty, is vague and imprecise and includes common law offences. The State party should make its legislation conform to article 6, paragraph 2, of the Covenant, which provides that a sentence of death may be imposed only for the most serious crimes.

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

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

- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at para. 83(4).

The fact that capital punishment was abolished in 1990 is welcomed and the State party is encouraged to accede to the Second Optional Protocol to the Covenant.

- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at paras. 85(17) and 85(18).

Paragraph 85(17)

Concern is expressed about the application of the death penalty and, in particular, about the increase in the number of crimes carrying that penalty, its application having been extended to abduction not resulting in death, contrary to the provisions of the Covenant. The State party should limit the application of the death penalty to the most serious crimes and restrict the number of crimes carrying that penalty in accordance with article 6, paragraph 2, of the Covenant. The State party is invited to move towards the full abolition of the death penalty.

Paragraph 85(18)

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The elimination of the right of persons sentenced to death to seek pardon or commutation of the sentence, as recognized in article 6, paragraph 4, of the Covenant is of concern. The information supplied by the delegation that, despite the existence of that Act, the President of the Republic has exercised the right to grant pardon on the basis of the precedence of international treaties over ordinary laws is noted. The State party should guarantee any person sentenced to death the right to seek pardon or commutation of sentence by bringing the legislation into line with the obligations of the Covenant and adopting provisions to ensure that the right to seek pardon may be exercised.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at paras. 86(4) and 86(13).

Paragraph 86(4)

The reduction of the number of criminal offences carrying the death penalty from 33 to 5 is welcomed, as is the readiness to further review the issue of capital punishment with a view to its abolition.

Paragraph 86(13)

The delegation's information that the death penalty has rarely been imposed and carried out in the last three years is noted. While the fact that the number of offences carrying the death penalty has been reduced to five is appreciated, it is of serious concern that of these five offences, four are essentially political offences (articles 44, 45, 47 and 52 of the Criminal Code), couched in terms so broad that the imposition of the death penalty may be subject to essentially subjective criteria, and not be confined to "the most serious crimes" only, as required under article 6, paragraph 2, of the Covenant. The acknowledged and reported instances of public executions are also of concern. The above-mentioned articles of the Criminal Code should be reviewed and amended, to bring them into conformity with the requirements of article 6, paragraph 2, of the Covenant. The State party should refrain from any public executions. The State party is invited to work towards the declared goal of abolishing capital punishment.

ICESCR

- Kyrgyzstan, ICESCR, E/2001/22 (2000) 62 at para. 341.

It is noted with concern that the "tribunals of eminent persons", convened informally to discuss issues of law and order in local communities, often take upon themselves the functions of the judiciary, including recommendations on the death penalty.

CAT

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- Jordan, CAT, A/50/44 (1995) 23 at para. 169.

Concern is expressed over the continuing application of the death penalty, as well as corporal punishment, which could constitute in itself a violation of the Convention.

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

Paragraph 149

That some methods of capital punishment may be in breach of article 16 of the Convention is of concern.

Paragraph 150

The methods of execution of prisoners sentenced to death should be brought into conformity with article 16 of the Convention.

- Ukraine, CAT, A/52/44 (1997) 23 at paras. 135 and 150.

Paragraph 135

The scale on which the death penalty is applied is of serious concern as it is contrary to the European Convention on Human Rights and the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The large number of provisions in the Criminal Code that envisage the imposition of the death penalty, including an attempt on the life of a militiaman is of concern. This is contrary to the obligation assumed by the State party to introduce a moratorium on the imposition of the death penalty.

Paragraph 150

It is recommended that the moratorium on the application of the death penalty be given permanent effect.

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

Paragraph 72

The suspension of the death penalty for a period of two years and its application only to a few serious offences is noted with satisfaction.

Paragraph 75

The State party should consider abolishing the death penalty.

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- Armenia, CAT, A/56/44 (2001) 17 at para. 39.

The State party should adopt the draft Penal Code as soon as possible, which abolishes the death penalty, in order to resolve the situation of the many persons who have been sentenced to death and who are being kept in uncertainty amounting to cruel and inhuman treatment in breach of article 16 of the Convention.

- Belarus, CAT, A/56/44 (2001) 19 at para. 45.

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

- Cameroon, CAT, A/56/44 (2001) 28 at para. 63.

The scrupulous respect shown by the courts and political authorities in Cameroon for the State party's obligations under article 3 of the Convention, thus ensuring that a person is not extradited to a country where he is in danger of being subjected to torture or sentenced to death is noted with satisfaction.

CRC

- Pakistan, CRC, CRC/C/29 (1994) 10 at para. 37.

Certain areas of national legislation are not compatible with the provisions and principles of the Convention, including the punishment of flogging, the death penalty and life imprisonment for children below the age of 18.

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

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

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- Belgium, CRC, CRC/C/43 (1995) 20 at paras. 106 and 110.

Paragraph 106

Concern is expressed about the possibility of relinquishment of jurisdiction provided for in article 38 of the Young Persons' Protection Act, which allows for young persons between 16 and 18 to be tried as adults and thereby face the imposition of a death sentence or a sentence of life imprisonment.

Paragraph 110

Steps should be taken with a view to ensuring the abolition of the death penalty, in peace time as well as in wartime.

- China, CRC, CRC/C/54 (1996) 18 at para. 125.

That national legislation appears to allow children between the ages of 16 and 18 to be sentenced to death with a two-year suspension of execution is a concern. The imposition of suspended death sentences on children constitutes cruel, inhuman or degrading treatment or punishment. The Convention prescribes that neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below the age of 18. The aforementioned provisions of national law are incompatible with the principles and provisions of the Convention.

- Guatemala, CRC, CRC/C/54 (1996) 31 at para. 205.

It is of deep concern that national legislation does not prohibit capital punishment or life imprisonment without the possibility of release, as required by the provisions of article 37 (a) of the Convention.

- Cyprus, CRC, CRC/C/54 (1996) 38 at para. 236.

It is noted with satisfaction that the death penalty for ordinary crimes has been abolished. The fact that Parliament is currently discussing the adoption of a bill prohibiting capital punishment for acts of high treason is welcomed.

- Nigeria, CRC, CRC/C/57 (1996) 12 at para. 92.

National legislation must comply with the principle that capital punishment cannot be applied to

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children under the age of 18.

- Bangladesh, CRC, CRC/C/66 (1997) 22 at para. 135.

The various age limits set by law, the lack of a definition of the child, the age of criminal responsibility, which is set at too young an age, and the possibility of imposing the death penalty and/or imprisonment of children 16-18 years of age in ordinary prisons are matters of deep concern.

- Yemen, CRC, CRC/C/84 (1999) 33 at para. 170.

All available measures should be taken to ensure the immediate registration of the birth of all children. Attention should be given to the serious implications of the absence of a birth certificate, which can result in the sentencing of a child to the death penalty.

- Russian Federation, CRC, CRC/C/90 (1999) 26 at para. 118.

The application, by courts in Chechnya, of the death penalty and certain corporal punishments, including mutilation, when sentencing children, and allegations of summary executions, involuntary disappearances, arbitrary detention, torture and ill-treatment of children are matters of concern.

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

Paragraph 111

Concern is expressed over the administration of juvenile justice in India and its incompatibility with articles 37, 40 and 39 of the Convention and other relevant international standards. Noting that the death penalty is *de facto* not applied to persons under 18, the Committee is very concerned that *de jure*, this possibility exists.

Paragraph 113

It is recommended that the State party abolish the imposition of the death penalty on persons under 18.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 50 and 51.

Paragraph 50

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In light of articles 6 and 37(a) of the Convention, the Committee is seriously disturbed at the applicability of the death penalty for crimes committed by persons under 18 and emphasizes that such a penalty is incompatible with the Convention.

Paragraph 51

The State party should take immediate steps to halt and abolish by law the imposition of the death penalty for crimes committed by persons under 18.

See also:

- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 401 and 402.

- Ethiopia, CRC, CRC/C/103 (2001) 24 at paras. 192 and 193.

Paragraph 192

Concern is expressed about the fact that children are not separated from adults while in detention and that children aged 15 to 18 may not benefit from all the protections afforded by relevant juvenile justice standards and may, under the current legislation, be sentenced to the death penalty or to life imprisonment.

Paragraph 193

The Penal Code should be amended to ensure that all children, including those aged 15 to 18, benefit from the protections afforded by international juvenile justice standards and to ensure that children under 18 years of age cannot be sentenced to the death penalty or to life imprisonment.

- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 223 and 224.

Paragraph 223

Concern is expressed that children aged 16 and 17 are considered to be adults for the purposes of criminal responsibility and that children 16 or above can, and have been, sentenced to the death penalty, which is a violation of article 37(a) of the Convention.

Paragraph 224

It is urged that the application of juvenile justice provisions be guaranteed to all persons aged under 18, in accordance with international standards. In particular, the State party is urged to ensure respect for article 37(a) of the Convention and that no person under 18 is sentenced to the death penalty or life imprisonment without possibility of release..

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- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at para. 290.

The enactment of the new Constitution of 1 August 2000 is welcomed, which contains provisions on human rights for the protection of children and abolishes the death penalty (which used to be applicable to children from 16 years of age).

- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 376 and 377.

Paragraph 376

It is of concern that the law does not explicitly prohibit the use of the death penalty or life imprisonment for children below the age of 18 years.

Paragraph 377

The State party is strongly encouraged to establish by law the prohibition of the use of the death penalty and life imprisonment for children below the age of 18 years.

See also:

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 300 and 301.
- Gambia, CRC, CRC/C/111 (2001) 89 at paras. 464 and 466.