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IV. CONCLUDING OBSERVATIONS

ICCPR

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 122.

Under customary arrangements, a woman's consent to marriage is mediated by a guardian, and recourse has to be made to the courts to override any prohibition within the family on a woman's choice of a husband. Such restrictions, whether by practice or legislation, are incompatible with articles 3, 16, 23 and 26 of the Covenant. The State party should repeal all legal provisions hindering women's free choice of spouse, as well as all other rules differentiating between men's and women's rights to marry and within marriage.

- Uruguay, ICCPR, A/53/40 vol. I (1998) 38 at para. 240.

In a number of cases the maintenance of the *Ley de Caducidad de la Pretensión Punitiva del Estado* (Expiry Law of the Punitive Powers of the State) effectively excludes the possibility of investigation into past human rights abuses and thereby prevents the State party from discharging its responsibility to provide effective remedies to the victims of those abuses. The Expiry Law violates article 16 of the Covenant in respect of disappeared persons and article 7 in respect of their family members. The State party is encouraged to promote and facilitate every opportunity to discuss this issue within the country, in order to find a solution that is in full compliance with its obligations under the Covenant.

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

Despite the reduction in the number of persons held in administrative detention on security grounds, persons may still be held for long and apparently indefinite periods of time in custody without trial. Palestinians detained by Israeli military order in the occupied territories do not have the same rights to judicial review as persons detained in Israel under ordinary law. At least some of the persons kept in administrative detention for reasons of State security (and in particular some Lebanese) do not personally threaten State security but are kept as "bargaining chips" in order to promote negotiations with other parties on releasing detained Israeli soldiers or the bodies of deceased soldiers. This application of administrative detention is incompatible with articles 7 and 16 of the Covenant, neither of which allows for derogation in times of public emergency. A State party may not depart from the requirement of effective judicial review of detention. The application of detention should be brought within the strict requirements of the Covenant and effective judicial review should be made mandatory.

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- Algeria, ICCPR, A/53/40 vol. I (1998) 52 at paras. 358 and 361.

Paragraph 358

Disappearances may involve the right to life consecrated under article 6 of the Covenant, and where the disappeared individuals are still alive and are kept incommunicado, disappearances may involve the right guaranteed under article 16 of the Covenant, which provides that every individual shall have the right to recognition everywhere as a person before the law. In this situation these individuals are also deprived of their capacity to exercise all the other rights, without any recourse, recognized under the Covenant. Furthermore, disappearances violate article 7 with regard to the relatives of the disappeared. The State party is urged to adopt measures (a) to establish a central register to record all reported cases of disappearances and day-to-day action taken to retrace the disappeared; and (b) to assist the families concerned to retrace the disappeared.

Paragraph 361

The Family Code still contains important areas of inequality: a woman's consent to her first marriage is generally mediated by a male guardian, and this guardian can deny the woman her choice of a husband; the husband is the head of the family and polygamous marriage is possible; and it precludes a woman from marrying a non-Muslim while the same restriction does not apply to a man. This legislation should be brought into conformity with all the rights to which women are entitled under articles 3, 16, 23 and 26 of the Covenant.

- Libyan Arab Jamahiriya, ICCPR, A/54/40 vol. I (1999) 32 at para. 132.

The law enacted in 1997 known as the "Charter of Honour", which authorizes collective punishment for those found guilty of collective crimes (including "obstructing the people's authority..., damaging public and private institutions"), violates several articles of the Covenant, including articles 7, 9 and 16. The application of this law should be suspended without delay and steps should be taken to repeal it.

- Austria, ICCPR, A/54/40 vol. I (1999) 42 at para. 188.

Certain features of Austria's law and procedure concerning asylum seekers and immigrants raise concerns. These concerns relate to (i) apparently insufficient legal guarantees to prevent deportation in cases where there is a risk of treatment that would violate article 7; (ii) the treatment of persons against whom there is a deportation decision but who remain in the country, raising issues under articles 7, 10 and 16; and (iii) sanctions against passenger carriers and other pre-frontier arrangements that may affect the rights of any person to leave any country, including his or her own (article 12, paragraph 2 of the Covenant).

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- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at para. 470.

In accordance with articles 2, paragraph 3, 6, 7 and 16, of the Covenant, the State party should adopt concrete measures to clarify each and every case of disappearance.

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at para. 74(4).

The operation of a number of institutions and programmes designed to serve as a channel of redress for victims of past abuses, including the Historical Reparation Programme, the National Commission on the Disappearance of Persons and the National Commission for the Right to an Identity is noted with satisfaction. The efforts being made to provide financial and other compensation to victims of arbitrary detention and the families of persons who died or disappeared under the military regime are appreciated.

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at para. 80(9).

Article 17 of the Constitution, dealing with a state of emergency, is not entirely compatible with the requirements of article 4 of the Covenant, in that the Constitutional grounds justifying a derogation are broader than the "threat to the life of the nation" mentioned in article 4; that measures of derogation are not restricted to those strictly required by the exigencies of the situation; and that non-derogable rights do not include the rights under article 8, paragraphs 1 and 2, article 11 and article 16 of the Covenant. The State party should ensure that its constitutional provisions on a state of emergency are compatible with article 4 of the Covenant and that in practice no derogation from rights should be permissible unless the conditions of article 4 have been met.

CRC

- Jamaica, CRC, CRC/C/38 (1995) 25 at para. 148.

The difficulties in ensuring the registration of children at birth are of concern. Such a situation implies the non-recognition of those children as persons before the law, which will affect the level of enjoyment of their fundamental rights and freedoms. The difficulties in ensuring the registration of post-natal deaths are also of concern.

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

A registry of all children is necessary, in particular, to ensure their recognition as persons before the

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law and the fuller enjoyment of their rights and, in general, to facilitate the effective monitoring of the situation of children and thereby assisting in the development of appropriate and targeted programmes.

- Mongolia, CRC, CRC/C/50 (1996) 13 at para. 70.

Children's birth registration should be given priority to ensure that every child is recognized as a person and enjoys his/her full rights. Further steps are encouraged to ensure birth registration of children, including the establishment of mobile registration offices.

- Nepal, CRC, CRC/C/54 (1996) 25 at para. 180.

Children's birth registration should be given priority to ensure that every child is recognized as a person and enjoys his/her full rights. Further steps are encouraged to ensure the birth registration of children, including the establishment of mobile registration offices and registration units in schools.

- Guatemala, CRC, CRC/C/54 (1996) 31 at para. 209.

Deficiencies in the system of birth registration are of deep concern since the failure to register children prevents them from being recognized as persons, from having access to education and health services and from being protected against trafficking in and illegal adoption of children.

- Comoros, CRC, CRC/C/100 (2000) 110 at para. 622.

Serious concern is expressed at the way in which the principle of respect for the views of the child (art. 12) is interpreted in the State party, especially since, according to the report, a child needs to be "trained" to become a human being.