

## **PUBLIC AND PRIVATE ACTORS - MILITARY**

### **III. CONCLUDING OBSERVATIONS, CONTINUED**

#### **CERD**

- Belgium, CERD, A/57/18 (2002) 17 at para. 45.

45. The Committee welcomes the measures taken by the State party to raise awareness of racism and racial discrimination, in particular in the army and among criminal justice officials...

- Qatar, CERD, A/57/18 (2002) 38 at para. 201.

201. The Committee recommends that the State party institute training programmes on human rights and understanding among ethnic groups for law enforcement officials, including policemen, military and prison staff, and members of the judiciary.

- Canada, CERD, A/57/18 (2002) 56 at para. 323.

323. The Committee welcomes the extension of the scope of the Employment Equity Act to the federal public service and the Canadian Forces, and notes with satisfaction the progress achieved regarding the representation of Aboriginals and minorities in the federal public service.

- Ecuador, CERD, A/58/18 (2003) 22 at para. 58.

58. Serious concern is expressed about reported instances of excessive use of force by the police and armed forces against indigenous people, particularly in the context of political demonstrations and civil unrest. The Committee recommends that the State party ensure that such acts are avoided and, in this connection, recommends that the State party include human rights education in the professional training of police and armed forces, as well as prison staff..

- Fiji, CERD, A/58/18 (2003) 25 at para. 87.

87. The Committee expresses concern about the underrepresentation of Indo-Fijians and other ethnic minorities in the police, the army and other public services in general, and recommends that specific programmes be adopted to ensure appropriate representation of all ethnic communities in these services...

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- Uganda, CERD, A/58/18 (2003) 50 at para. 277.

277. The Committee expresses concern about allegations of abuses committed by Ugandan forces against members of particular ethnic groups in the Democratic Republic of the Congo. The Committee urges the State party to comply fully with Security Council resolutions 1304 (2000) and 1332 (2000).

- France, CERD, A/60/18 (2005) 26 at paras. 113 and 118.

113. While the Committee views as encouraging the efforts being made by the State party to create awareness among members of the security forces and other public officials of efforts to combat discrimination, it is concerned at allegations of persistent discriminatory behaviour towards the members of certain ethnic groups on the part of such personnel.

The Committee recommends to the State party that it should take the necessary preventive measures to halt racist incidents involving members of the security forces. It should also ensure that impartial investigations are carried out into all these complaints, and that any punishments imposed are proportionate to the gravity of the acts committed.

...

118. While the Committee takes note of the measures taken to settle the question of foreign veterans' pensions, it remains concerned at the continued differential treatment of such persons as compared with veterans who are French nationals.

The Committee encourages the State party to find a definitive solution to the question of foreign veterans' pensions by applying the principle of equal treatment.

- Lao People's Democratic Republic, CERD, A/60/18 (2005) 35 at para. 174.

174. The Committee is concerned at reports that serious acts of violence have been perpetrated against members of the Hmong minority, in particular allegations that soldiers brutalized and killed a group of five Hmong children on 19 May 2004 (art. 5).

The Committee recommends to the State party that it provide more precise information about the bodies responsible for investigating these allegations. It also strongly recommends that the State party allow United Nations bodies for the protection and promotion of human rights to visit the areas in which members of the Hmong minority have taken refuge.

## **ICCPR**

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- Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at paras. 74(16) and 74(20).

(16) The Committee is concerned at reports of bullying and hazing (*dedovshchina*) of young conscripts in the armed forces by older soldiers, which in some cases have led to deaths, suicides and desertion.

The State party should strengthen measures to end these practices and prosecute offenders, and take steps by way of education and training in its armed forces to eradicate the negative culture that has encouraged such practices.

...

(20) The Committee notes with concern the information given by the State party that conscientious objection to military service is accepted only in regard to objections for religious reasons and only with regard to certain religions, which appear in an official list. The Committee is concerned that this limitation is incompatible with articles 18 and 26 of the Covenant.

The State party should widen the grounds for conscientious objection in law so that they apply, without discrimination, to all religious beliefs and other convictions, and that any alternative service required for conscientious objectors be performed in a non-discriminatory manner.

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at para. 75(8).

(8) The Committee is deeply disturbed that, a considerable time after murders of persons (including human rights defenders) in Northern Ireland have occurred, a significant number of such instances have yet to receive fully independent and comprehensive investigations, and the persons responsible to be prosecuted. This phenomenon is doubly troubling where persistent allegations of involvement and collusion by members of the State party's security forces, including the Force Research Unit, remain unresolved.

The State party should implement, as a matter of particular urgency given the passage of time, the measures required to ensure a full, transparent and credible accounting of the circumstances surrounding violations of the right to life in Northern Ireland in these and other cases.

- Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at para. 77(21).

(21) The Committee takes note of the fact that the law makes no provision for the status of

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conscientious objector to military service, which may legitimately be claimed under article 18 of the Covenant.

The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service without discrimination.

### ***See also:***

- Viet Nam, ICCPR, A/57/40 vol. I (2002) 67 at para. 82(17).

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at para. 78(18).

(18) The Committee expresses its concern at the discrimination suffered by conscientious objectors owing to the fact that non-military alternative service lasts for 36 months compared with 18 months for military service; it regrets the lack of clear information on the rules currently governing conscientious objection to military service.

The State party should ensure that persons liable for military service who are conscientious objectors can opt for civilian service the duration of which is not discriminatory in relation to military service, in accordance with articles 18 and 26 of the Covenant.

- Republic of Moldova, ICCPR, A/57/40 vol. I (2002) 76 at para. 84(5).

(5) ...The Committee...welcomes the...provision for alternative civilian service of equal duration in place of military service.

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

(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.

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- Togo, ICCPR, A/58/40 vol. I (2002) 36 at para.78(9).

(9) The Committee is concerned at:

(a) information that many extrajudicial executions, arbitrary arrests, threats and intimidation perpetrated by the Togolese security forces, against members of the civilian population, in particular members of the opposition, have not been investigated in a credible manner. The Committee notes that the adoption of laws such as the December 1994 Amnesty Act is likely to reinforce the culture of impunity in Togo.

(b) The fact that the Joint United Nations/OAU International Commission of Inquiry concluded that “a situation involving systematic violations of human rights existed in Togo during 1998” (E/CN.4/2001/134, para. 68). Those violations relate, in particular, to article 6 of the Covenant, and also to articles 7 and 9. The categorical rejection of the Commission’s report, which the State party has declared to be inadmissible, and the creation some weeks later of a national commission of inquiry, which has clearly not sought to identify precisely those responsible for the violations drawn to the Government’s attention, also prompt the greatest concern on the part of the Committee.

The State party should adopt legislative or other measures to combat and prevent the perpetration of such violations, in keeping with articles 6 and 9 of the Covenant and the “Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions”. The State party should establish, through judicial proceedings, the individual responsibilities of the alleged perpetrators of these violations.

- Estonia, ICCPR, A/58/40 vol. I (2003) 41 at paras. 79(11) and 79(15).

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

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

...

(15) The Committee is concerned that the duration of alternative service for conscientious objectors may be up to twice as long as the duration of regular military service.

The State party is under an obligation to ensure that conscientious objectors can opt for alternative service, the duration of which is without punitive effect (articles 18 and 26 of the Covenant).

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- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(15).

(15) The Committee is concerned by reports of cases of torture and extrajudicial executions, allegedly committed by soldiers in 2000 following the murder of three tourists in Kidal. The Committee finds it difficult to accept the view of the delegation that there were no extrajudicial executions, even though no inquiry has been conducted by the State party. The Committee is also seriously concerned about the delegation's statement that no inquiries have been conducted into the complaints of torture and inhuman or degrading treatment made by members of opposition parties arrested in 1997, because of the national reconciliation process and the need to protect public order (articles 6 and 7).

The State party should avoid the growth of a culture of impunity for the perpetrators of human rights violations and should ensure that systematic inquiries are conducted into allegations of violence against life and limb by its officials.

- 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 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.

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at para. 84(8).

(8) The Committee is sorry that the delegation did not give a proper answer to the question whether all military and court officials named in the report of the Truth Commission have been suspended from their duties as recommended by the Commission.

The State party is encouraged to follow the recommendations made by the Truth Commission in its report...

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at paras. 85(15), 85(17) and 85(24).

(15) The Committee is concerned by what the State party calls "targeted killings" of those identified by the State party as suspected terrorists in the Occupied Territories. This practice would appear to be used at least in part as a deterrent or punishment, thus raising issues under article 6. While noting the delegation's observations about respect for the principle

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of proportionality in any response to terrorist activities against civilians and its affirmation that only persons taking direct part in hostilities have been targeted, the Committee remains concerned about the nature and extent of the responses by the Israeli Defence Force (IDF) to Palestinian terrorist attacks.

The State party should not use “targeted killings” as a deterrent or punishment. The State party should ensure that the utmost consideration is given to the principle of proportionality in all its responses to terrorist threats and activities. State policy in this respect should be spelled out clearly in guidelines to regional military commanders, and complaints about disproportionate use of force should be investigated promptly by an independent body. Before resorting to the use of deadly force, all measures to arrest a person suspected of being in the process of committing acts of terror must be exhausted.

...

(17) The Committee is concerned about the IDF [Israeli Defence Force] practice in the Occupied Territories of using local residents as “volunteers” or shields during military operations, especially in order to search houses and to help secure the surrender of those identified by the State party as terrorist suspects.

The State party should discontinue this practice, which often results in the arbitrary deprivation of life (art. 6).

...

(24) While noting the Supreme Court’s judgement of 30 December 2002 in the case of eight IDF [Israeli Defence Force] reservists (judgement HC 7622/02), the Committee remains concerned about the law and criteria applied and generally adverse determinations in practice by military judicial officers in individual cases of conscientious objection (art. 18).

The State party should review the law, criteria and practice governing the determination of conscientious objection, in order to ensure compliance with article 18 of the Covenant.

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at para. 63(15).

(15) The Committee is concerned at continuing reports of displacement of persons and evacuation of populations, including indigenous population groups, in areas of counter-insurgency operations.

The State party should take urgent measures to ensure the protection of civilians in areas affected by military operations, in accordance with its human rights obligations.

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at paras. 64(13) and 64(17).

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(13) The Committee remains deeply concerned about continuing substantiated reports of human rights violations in the Republic of Chechnya, including extrajudicial killings, disappearances and torture, including rape. The Committee notes that some 54 police and military personnel have been prosecuted for crimes committed against civilians in Chechnya, but remains concerned that the charges and sentences handed down do not appear to correspond with the gravity of the acts as human rights violations. The Committee is also concerned that investigations into a number of large-scale abuses and killings of civilians in 1999 and 2000, in the locations of Alkhan Yurt, Novye Aldy and Staropromyslovskii district of Grozny, have still not been brought to a conclusion. The Committee acknowledges that abuse of and violations against civilians also involve non-State actors, but reiterates that this does not relieve the State party of its obligations under the Covenant. In this regard, the Committee is concerned about the provision in the Federal Law "On Combating Terrorism" which exempts law enforcement and military personnel from liability for harm caused during counter-terrorist operations.

The State party should ensure that operations in the Republic of Chechnya are carried out in compliance with its international human rights obligations. The State party should ensure that abuse and violations are not committed with impunity *de jure* or *de facto*, including violations committed by military and law enforcement personnel during counter-terrorist operations. All cases of extrajudicial executions, enforced disappearances and torture, including rape, should be investigated, their perpetrators prosecuted and victims or their families compensated (arts. 2, 6, 7 and 9).

...

(17) While the Committee welcomes the introduction of the possibility for conscientious objectors to substitute civilian service for military service, it remains concerned that the Alternative Civilian Service Act, which will take effect on 1 January 2004, appears to be punitive in nature by prescribing civil service of a length 1.7 times that of normal military service. Furthermore, the law does not appear to guarantee that the tasks to be performed by conscientious objectors are compatible with their convictions.

The State party should reduce the length of civilian service to that of military service and ensure that its terms are compatible with articles 18 and 26 of the Covenant.

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at para. 65(15).

(15) The Committee notes with satisfaction that in 2002 a new law on alternative service entered into force, which provides for the right to conscientious objection. However, the Committee remains concerned that, pending a change in the conscription law, the duration of alternative service is up to twice that of military service and appears to be discriminatory (art. 18).

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The State party should ensure that the alternative service is not of a discriminatory duration.

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at paras. 66(9) and 66(10).

(9) The Committee remains concerned about persistent reports of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and members of the armed forces, and that the restrictive definition of torture in the 1994 Convention against Torture Act continues to raise problems in the light of article 7 of the Covenant. It regrets that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, have been inconclusive due to lack of satisfactory evidence and unavailability of witnesses, despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture, and only very few police or army officers have been found guilty and punished. The Committee also notes with concern reports that victims of human rights violations feel intimidated from bringing complaints or have been subjected to intimidation and/or threats, thereby discouraging them from pursuing appropriate avenues to obtain an effective remedy (article 2 of the Covenant).

The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 7 and 9 of the Covenant, and ensure effective enforcement of the legislation. It should ensure in particular that allegations of crimes committed by State security forces, especially allegations of torture, abduction and illegal confinement, are investigated promptly and effectively with a view to prosecuting perpetrators. The National Police Commission complaints procedure should be implemented as soon as possible. The authorities should diligently enquire into all cases of suspected intimidation of witnesses and establish a witness protection programme in order to put an end to the climate of fear that plagues the investigation and prosecution of such cases. The capacity of the National Human Rights Commission to investigate and prosecute alleged human rights violations should be strengthened.

(10) The Committee is concerned about the large number of enforced or involuntary disappearances of persons during the time of the armed conflict, and particularly about the State party's inability to identify, or inaction in identifying those responsible and to bring them to justice. This situation, taken together with the reluctance of victims to file or pursue complaints (see paragraph 9 above), creates an environment that is conducive to a culture of impunity.

The State party is urged to implement fully the right to life and physical integrity of all persons (articles 6, 7, 9 and 10, in particular) and give effect to the relevant recommendations made by the United Nations Commission on Human Rights Working Group on Enforced or Involuntary Disappearances and by the Presidential Commissions for

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Investigation into Enforced or Involuntary Disappearances. The National Human Rights Commission should be allocated sufficient resources to monitor the investigation and prosecution of all cases of disappearances.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at paras. 67(9), 67(12) and 67(15)-67(17).

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

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

...

(12) The Committee also expresses its concern about links involving extensive violations of articles 6, 7 and 9 of the Covenant between elements of the armed forces and State security forces, on the one hand, and illegal paramilitary groups on the other.

The State party should take effective measures to terminate the links between elements of the security services and illegal paramilitary groups.

...

(15) The Committee notes allegations that the Office of the Public Prosecutor has not pursued with appropriate diligence members of the armed forces and security forces suspected of perpetrating criminal violations of human rights, notably torture, enforced disappearances and summary and arbitrary executions (articles 6, 7 and 9, together with article 2).

The State party should ensure that these cases are investigated, whoever the alleged perpetrators may be, and guarantee to the victims the full exercise of the right to an effective remedy, as stipulated in article 2 of the Covenant.

(16) The Committee is concerned that military tribunals are continuing to investigate crimes committed by military personnel involving torture, enforced disappearances and summary and arbitrary executions, despite their previous ineffectiveness in solving such crimes and the decision of the Constitutional Court assigning jurisdiction over such crimes to the ordinary courts (articles 6, 7 and 9, together with article 2).

The State party should ensure that the ordinary courts investigate and adjudicate such crimes

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and that all elements of the armed forces cooperate in the proceedings in question. Individuals under investigation for such crimes should be suspended from active duty during the investigation and trial.

(17) The Committee notes with concern that the legislation of the State party does not allow conscientious objection to military service.

The State party should guarantee that conscientious objectors are able to opt for alternative service whose duration would not have punitive effects (articles 18 and 26 of the Covenant).

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at para. 68(11).

(11) The Committee notes with concern that Germany has not yet taken a position regarding the applicability of the Covenant to persons subject to its jurisdiction in situations where its troops or police forces operate abroad, in particular in the context of peace missions. It reiterates that the applicability of the regime of international humanitarian law does not preclude accountability of States parties under article 2, paragraph 1, of the Covenant for the actions of its agents outside their own territories.

The State party is encouraged to clarify its position and to provide training on relevant rights contained in the Covenant specifically designed for members of its security forces deployed internationally.

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at paras. 69(7) and 69(16).

(7) The Committee is concerned at the continued impunity of those responsible for human rights violations committed during the period of military rule. In particular, investigations into the December 1982 killings and the 1986 Moiwana massacre remain pending and have not yet produced concrete results. The information supplied by the delegation that all such cases are still being investigated is disturbing, especially given the lapse of time since their occurrence. The Committee further considers that this situation reflects a lack of effective remedies available to victims of human rights violations, which is incompatible with article 2, paragraph 3, of the Covenant.

The State party should give special priority to bringing to justice the perpetrators of human rights violations, including human rights violations committed by police and military personnel. The perpetrators of such acts must be tried and punished if found guilty, regardless of rank and political status. The State party should take all necessary measures to prevent the recurrence of such acts. Victims and their relatives should be provided with adequate compensation.

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(16) The Committee regrets that the State party has not provided information, as requested, about the role of military courts, their jurisdiction and composition, and how the State party ensures their independence and impartiality.

The State party should ensure that military courts, if operating, function in accordance with the rights set out in the Covenant, in particular in accordance with the rights laid down in article 14...

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(12), 70(13), 70(15) and 70(17).

(12) The Committee regrets that the State party has not taken sufficient steps to ensure the right to life and the right to liberty and security of persons affected by the armed conflict in northern Uganda, in particular internally displaced persons currently confined to camps (arts. 6 and 9).

The State party should take immediate and effective measures to protect the right to life and liberty of the civilian population in areas of armed conflict in northern Uganda from violations by members of the security forces. In particular, it should protect internally displaced persons confined in camps, which are constantly exposed to attacks from the Lord's Resistance Army.

(13) The Committee is concerned about the broad array of crimes for which the death penalty may be imposed. It finds incompatible with the Covenant that the death penalty is mandatory for the crimes of murder, aggravated robbery, treason and terrorism resulting in the death of a person, and the imposition of death sentences by field courts-martial without the possibility of appeal or to seek pardon or commutation of the sentence...

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

...

(15) The Committee is concerned about the magnitude of the problem of abduction of children, in particular in northern Uganda. While acknowledging the measures taken by the State party to mitigate it, the Committee is concerned that available data do not show a decrease in the number of abductions. It is also concerned about the fate of former child soldiers (arts. 6, 8 and 24).

The State party should take the necessary steps, as a matter of extreme urgency and in a comprehensive manner, to face the abduction of children, and to reintegrate former child

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soldiers into society.

...

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

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

- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at para. 71(17).

(17) The Committee reiterates the concern expressed in its concluding observations on the previous report about conditions of alternative service available to conscientious objectors to military service, in particular with respect to the eligibility criteria applied by the Special Commission and the duration of such service as compared with military service.

The Committee recommends that the State party clarify the grounds and eligibility for performing alternative service to persons objecting to military service on grounds of conscience or religious belief, to ensure that the right to freedom of conscience and religion is respected by permitting in practice alternative service outside the defence forces, and that the duration of service is not punitive in nature (arts. 18 and 26).

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at paras. 72(6) and 72(10).

(6) The Committee is concerned at the fact that the State party is unable to affirm, in the absence of a finding by an international body that it has failed to honour its obligations, that the Covenant automatically applies when it exercises power or effective control over a person outside its territory, regardless of the circumstances in which such power or effective control was obtained, such as forces constituting a national contingent assigned to an international peacekeeping or peace enforcement operation (art. 2).

The State party should respect the safeguards established by the Covenant, not only in its territory but also when it exercises its jurisdiction abroad, as for example in the case of peacekeeping missions or NATO military missions, and should train the members of such

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missions appropriately.

...

(10) The Committee is concerned at the small number of convictions in criminal and disciplinary proceedings of military personnel suspected of human rights violations during the United Nations operation in Somalia. It does note that the State party has removed the jurisdiction of military courts over acts committed by military personnel in peacetime (art. 2).

The State party should prohibit, and punish effectively, any conduct by military personnel, whether in peacetime or wartime, that is contrary to human rights, in particular the conduct set forth in articles 6 and 7 of the Covenant.

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at paras. 75(20) and 75(21).

(20) The Committee is concerned at the possibility of civilians being tried by military courts for crimes such as disclosure of State secrets (art. 14).

The State party should give effect to its aspiration to secure that civilians are not tried by military courts.

(21) The Committee takes note of the information provided by the delegation whereby conscientious objection is governed by a provisional decree, which is to be replaced by a law, which will recognize full conscientious objection to military service and an alternative civil service that will have the same duration as military service (art. 18).

The State party should enact the said law as soon as possible. The law should recognize conscientious objection to military service without restrictions (art. 18) and alternative civil service of a non-punitive nature.

- Finland, ICCPR, A/60/40 vol. I (2004) 22 at para. 81(14).

(14) The Committee regrets that the right to conscientious objection is acknowledged only in peacetime, and that the civilian alternative to military service is punitively long. It reiterates its concern at the fact that the preferential treatment accorded to Jehovah's Witnesses has not been extended to other groups of conscientious objectors.

The State party should fully acknowledge the right to conscientious objection and, accordingly, guarantee it both in wartime and in peacetime; it should also end the discrimination inherent in the duration of alternative civilian service and the categories that can benefit from it (arts. 18 and 26 of the Covenant).

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- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at para. 84(22).

(22) The Committee notes that, according to the information supplied by the State party, compulsory military service is a fallback applicable only when not enough professional soldiers can be recruited, while at the same time the State party does not recognize the right to conscientious objection.

The State party should fully recognize the right to conscientious objection in times of compulsory military service and should establish an alternative form of service, the terms of which should be non-discriminatory (Covenant, arts. 18 and 26).

- Poland, ICCPR, A/60/40 vol. I (2004) 40 at paras. 85(3) and 85(15).

(3) The Committee welcomes the commitment of the State party to respect the rights recognized in the Covenant for all individuals subject to its jurisdiction in situations where its troops operate abroad, particularly in the context of peacekeeping and peace-restoration missions.

...

(15) The Committee notes that the duration of alternative military service is 18 months, whereas for military service it is only 12 months (arts. 18 and 26).

The State party should ensure that the length of alternative service to military service does not have a punitive character.

- Greece, ICCPR, A/60/40 vol. I (2005) 60 at para. 90(15).

(15) The Committee is concerned that the length of alternative service for conscientious objectors is much longer than military service, and that the assessment of applications for such service is solely under the control of the Ministry of Defence (art. 18).

The State party should ensure that the length of service alternative to military service does not have a punitive character, and should consider placing the assessment of applications for conscientious objector status under the control of civilian authorities.

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at para. 91(19).

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(19) The Committee regrets that no response was provided by the delegation to the question whether Yemen law recognizes a right to conscientious objection to military service (art. 18).

The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service that is not of a punitive character.

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at paras. 92(18) and 92(20).

(18) The Committee notes that military courts have jurisdiction to examine criminal cases concerning both military and civil persons (art. 14, para. 1).

The State party should make the necessary amendments to its Criminal Procedure Code in order to prohibit this practice, strictly limiting the jurisdiction of military courts to military persons only.

...

(20) The Committee is concerned that the State party does not recognize the right to conscientious objection to compulsory military service (art. 18).

The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service.

- Syrian Arab Republic, ICCPR, A/60/40 vol. I (2005) 78 at para. 94(11).

(11) The Committee takes note of the information provided by the delegation whereby Syria does not recognize the right to conscientious objection to military service, but that it permits some of those who do not wish to perform such service to pay a certain sum in order not to do so (art. 18).

The State party should respect the right to conscientious objection to military service and establish, if it so wishes, an alternative civil service of a non-punitive nature.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at para. 95(10).

(10) The Committee is concerned at the persistent allegations of serious human rights violations, including widespread instances of extrajudicial killings and ill-treatment by the police and members of armed forces, illustrated by incidents such as the Tak Bai incident in October 2004, the Krue Se mosque incident on 28 April 2004 and the extraordinarily large number of killings during the “war on drugs” which began in February 2003. Human rights

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defenders, community leaders, demonstrators and other members of civil society continue to be targets of such actions, and any investigations have generally failed to lead to prosecutions and sentences commensurate with the gravity of the crimes committed, creating a culture of impunity. The Committee further notes with concern that this situation reflects a lack of effective remedies available to victims of human rights violations, which is incompatible with article 2, paragraph 3, of the Covenant (arts. 2, 6, 7).

The State party should conduct full and impartial investigations into these and such other events and should, depending on the findings of the investigations, institute proceedings against the perpetrators. The State party should also ensure that victims and their families, including the relatives of missing and disappeared persons, receive adequate redress. Furthermore, it should continue its efforts to train police officers, members of the military and prison officers to scrupulously respect applicable international standards. The State party should actively pursue the idea of establishing an independent civilian body to investigate complaints filed against law enforcement officials.

### **ICESCR**

- Colombia, ICESCR, E/2002/22 (2001) 110 at para. 760.

760. The Committee notes with serious concern the increasing number of internally displaced persons. The Committee is particularly concerned that the internally displaced persons come from the most disadvantaged and marginalized groups, predominantly women and children, peasants and members of the country's indigenous and Afro-Colombian community who have been driven out of their areas by violence and armed conflict. In particular, the Committee notes with concern the negative consequences of the military part of "Plan Colombia", which has led to further displacements of population groups affected by the spraying of illegal crops.

- Algeria, ICESCR, E/2002/22 (2001) 116 at para. 826.

826. The Committee notes with concern the data in the UNDP Human Development Report, 2001 that indicates a significant decrease in public spending on health and education in the 1990s, as a percentage of both GNP and GDP, and relative to military expenditure, which more than doubled as a percentage of GDP.

- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 470, 471, 498 and 499.

470. The Committee is concerned about delays in the payment of compensation for houses

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destroyed during military operations in Chechnya.

471. The Committee is concerned about reports indicating maltreatment of conscripts in the armed forces as well as their sub-standard living conditions and lack of access to adequate food and health care.

...

498. The Committee calls upon the State party to guarantee that timely and adequate compensation is duly provided to all persons whose property has been destroyed during the military operations in Chechnya.

499. The Committee calls upon the State party to ensure that mechanisms are in place to ensure the enjoyment of basic rights of conscripts, including their access to adequate food and health care.

### **CEDAW**

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

391. ...The Committee is...disturbed by the fact that, despite strong evidence that members of the Russian forces have committed acts of rape or other sexual violence against women in the context of the armed conflict in Chechnya, the State party has failed to conduct the necessary investigations or hold anyone accountable in the vast majority of cases.

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

- Brazil, CEDAW, A/58/38 part II (2003) 93 at paras. 114 and 115.

114. The Committee is concerned about reports that indigenous women are being sexually abused by military units and prospectors (gold miners) on indigenous lands. The Committee notes that the Government is considering developing a code of conduct to regulate the presence of the armed forces on indigenous lands.

115. The Committee calls upon the State party to take necessary measures to raise awareness of the situation of indigenous women and girls and ensure that sexual violence against them is prosecuted and punished as a grave crime. It also urges the State party to adopt preventive measures, including swift disciplinary inquiries and human rights education

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programmes for the armed forces and law enforcement personnel.

- Israel, CEDAW, A/60/38 part II (2005) 129 at paras. 257 and 258.

257. The Committee is concerned about the number of incidents at Israeli checkpoints which have a negative impact on the rights of Palestinian women, including the right of access to health-care services for pregnant women.

258. The Committee calls upon the State party to ensure that the Israeli authorities at the checkpoints are instructed to ensure access to health-care services for pregnant women, while protecting the security of Israel.

## **CAT**

- Indonesia, CAT, A/57/44 (2002) 22 at paras. 40 and 42-45.

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

...

(d) The formal separation of the police from the military in 1999, as a vital aspect of the effort to ensure an independent civilian authority responsible for maintaining law and order;

(e) The recognition by the State party that eradication of torture is linked to overcoming a culture of violence within the army and the police, and the assurances that efforts to continue to work towards this goal are a high priority of the Government;

...

42. The Committee is concerned about:

(a) The large number of allegations of acts of torture and ill-treatment committed by members of the police forces, especially the mobile police units (“Brimob”), the army (TNI), and paramilitary groups reportedly linked to authorities, and in areas of armed conflict (Aceh, Papua, Maluku, etc.);

...

(c) Allegations that paramilitary groups, reported to be perpetrators of torture and ill-treatment in Indonesia, are supported by some parts of the military, and sometimes reportedly are joined by military personnel;

...

(e) Allegations that human rights abuses related to the Convention are sometimes committed by military personnel employed by businesses in Indonesia to protect their premises and to avoid labour disputes;

...

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43. The Committee is also concerned about:

(a) A climate of impunity, promoted in part by the fact that there has been little progress in bringing to trial members of the military, the police or other State officials, particularly those holding senior positions, who are alleged to have planned, commanded and/or perpetrated acts of torture and ill-treatment;

(b) The failure of the State party to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture reported to the authorities, as well as to prosecute alleged offenders, as required in articles 12 and 13 of the Convention;

(c) The insufficient level of guarantees of the independence and impartiality of the National Commission on Human Rights (Komnas-HAM) which hinders it in fully carrying out its mandate, which includes sole responsibility under Law 2000/26 for conducting initial investigations relating to gross violations of human rights, including torture, prior to forwarding cases to the Attorney-General for prosecution. Because only the Attorney-General has the authority to decide whether to initiate criminal proceedings, the Committee is further concerned that all the reports of Komnas-HAM on preliminary investigations are not published, and that Komnas-HAM does not have the right to challenge a decision by the Attorney-General not to prosecute a case.

...

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

...

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

...

45. The Committee recommends that the State party:

...

(b) Establish an effective, reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill-treatment and torture by police and other officials and, where the findings so warrant, to prosecute and punish perpetrators, including senior officials;

(c) Ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in paramilitary operations using torture will be appropriately prosecuted;

(d) Take immediate measures to strengthen the independence, objectivity, effectiveness and public accountability of the National Commission on Human Rights (Komnas-HAM), and ensure that all its reports to the Attorney-General are published in a timely fashion;

...

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(g) Continue measures of police reform to strengthen the independence of the police from the military, as an independent civilian law enforcement agency;

...

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

57. The Committee expresses its concern about the following:

...

(l) Despite certain progress, the practise of bullying and hazing (*dedovshchina*) of young conscript soldiers is still widely practised in the armed forces.

...

58. The Committee recommends that the State party:

...

(n) Adopt a more effective system to end the practise of bullying and hazing (*dedovshchina*) in the armed forces, through training and education, and prosecute and punish offenders;

...

- Russian Federation, CAT, A/57/44 (2002) 42 at paras. 89, 91, 93 and 95.

89. The Committee notes the following positive developments:

...

(e) Assurances by the representative of the State party that alternative service, and a "voluntary military on a contract basis" would be introduced to replace mandatory conscription into the armed forces;

(f) The Procurator General's Order No. 46, which requires the presence of representatives of the Prosecutor's Office during "special operations" carried out in Chechnya, and Order No. 80 of the Commander of the Federal Forces of the North Caucasus, requiring troops to identify themselves, record detentions, notify relatives, and take other measures to safeguard civilians from abuse;

...

91. The Committee is deeply concerned over the following:

...

(b) Continuing reports, despite the State party's considerable efforts to initiate dialogue and preventive safeguards such as a "hotline" for victims, of widespread "hazing" (*dedovshchina*) in the military, as well as torture and other cruel, inhuman or degrading treatment or punishment in the armed forces, conducted by or with the consent or approval of officers, resulting in severe physical and mental harm to the victims;

(c) A persistent pattern of impunity for torture and other ill-treatment benefiting both civil

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and military officials, a lack of reported decisions by judges to dismiss or return a case for further investigation citing the use of torture to obtain a confession, and the very small number of persons convicted of violations of the Convention.

...

93. The Committee is particularly concerned over the following: in connection with the events in Chechnya:

(a) Numerous, ongoing reports of severe violations of human rights and the Convention, including arbitrary detention, torture and ill-treatment, including forced confessions, extrajudicial killings, and forced disappearances, particularly during "special operations" or "sweeps", and the creation of illegal temporary detention centres, including "filtration camps". Allegations of brutal sexual violence are unusually common. Additionally, armed units which are reported to be very brutal towards civilians have been sent again into the conflict area;

(b) Numerous armed units and forces operating under the authority of various departments and services in Chechnya, which hinder the identification of the personnel responsible for the reported abusive actions cited above;

(c) A lack of effective implementation of Orders Nos. 46 and 80, as referred to above among the positive aspects;

(d) The dual system of jurisdiction in Chechnya involving both military and civilian prosecutors and courts, which leads to long and unacceptable delays in registering cases, resulting in a cyclical process whereby case information and the responsibility for opening investigations continue to be passed from one official to another and back, without resulting in the initiation of prosecutions. The Committee notes with concern that it is impossible for the civil prosecutor to question military personnel and carry out investigations at military sites in order to collect the evidence required to oblige the military prosecutor's office to take up the case. Also of concern is the insufficient independence of military courts, prosecutors and judges, with the result that few cases are registered to prosecute officials alleged to be responsible for the abuses.

...

95. With regard to the situation in Chechnya, the Committee...recommends that the State party:

(a) Clarify the jurisdiction over the events in Chechnya, which currently have an uncertain status, as there is no state of exception and there is also a non-international armed conflict in progress. Such clarification could provide individuals with an effective means of seeking redress for any violations committed, so they will not be caught in a vicious circle of various military and civilian departments and agencies with differing degrees of responsibility;

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(b) While a number of mechanisms have been put in place in Chechnya in connection with allegations of human rights violations, none has possessed the attributes associated with an independent impartial investigating body. Accordingly, the Committee reiterates its 1996 conclusion calling upon the Government of the State party to establish a credible impartial and "independent committee to investigate allegations of breaches of the Convention by the military forces of the Russian Federation and Chechen separatists, with a view to bringing to justice those against whom there is evidence that establishes their involvement or complicity in such acts" (A/52/44,para. 43(h));

(c) Ensure the effective implementation of Orders Nos. 46 and 80 and elaborate comprehensive guidelines on the conduct of sweep operations;

(d) Strengthen the powers of the Special Representative of the President for human and civil rights and freedoms in Chechnya to conduct investigations and make recommendations to the prosecutor as to possible criminal cases;

(e) Take steps to ensure civilian control over the army and ensure, in practice, that hazing, torture and ill-treatment are prohibited in the military, among conscripts and officers;

(f) Consider the formation of a joint investigative group of both military and civilian procuracy officials until specific responsibility can be identified and jurisdiction can be established.

- Egypt, CAT, A/58/44 (2002) 22 at para. 42.

42. The Committee recommends that the State party:

...

(i) Ensure that all persons convicted by decisions of military courts in terrorism cases shall have the right to have their conviction and sentence reviewed by a higher tribunal according to law;

...

- Cambodia, CAT, A/58/44 (2003) 40 at para. 98.

98. The Committee is concerned about the following:

...

(d) Impunity for past and present violations of human rights committed by law enforcement officials and members of the armed forces and, in particular, the failure of the State party to investigate acts of torture and other cruel, inhuman or degrading treatment or punishment and to punish the perpetrators;

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...

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

120. The Committee welcomes the following positive aspects:

...

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

...

123. The Committee recommends that the State party:

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

...

(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;

...

- Cameroon, CAT, A/59/44 (2003) 23 at paras. 42, 43 and 45-47.

42. The Committee, while welcoming the effort made by the State party to transmit information relating to the prosecution of State officials responsible for violations of human rights, is concerned about reports of the impunity of perpetrators of acts of torture. It is particularly worried about:

(a) The fact that gendarmes can be prosecuted for offences committed in the line of duty only with the authorization of the Ministry of Defence;

...

43. The Committee is also 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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45. The Committee...recommends that the State party should:

...

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

...

(f) Clarify the concept of a "manifestly illegal order", so that State employees, in particular police officers, members of the armed forces, prison guards, magistrates and lawyers, are clearly aware of the implications. Specific training on this point should be offered;

...

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;

...

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. 62 and 66-69.

62. The Committee notes with satisfaction the State party's adoption of a number of domestic laws of relevance to the prevention and suppression of torture and ill-treatment, in particular:

...

(b) The new Military Penal Code (Act No. 522/1999), which excludes the offences of torture, genocide and forced disappearance from the jurisdiction of the military criminal courts and regulates the principle of due obedience;

(c) Act No. 548/1999, which prohibits the conscription of persons under 18 years of age;

...

66. The Committee reiterates its concern at the numerous acts of torture and ill-treatment reported widely and systematically committed by the State security forces and organs in the State party both during and outside armed operations. It also expresses its concern at the high number of forced disappearances and arbitrary executions.

67. The Committee expresses its concern that measures adopted or being adopted by the State party against terrorism and illegal armed groups could encourage the practice of

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torture. In this regard the Committee expresses its concern, in particular, at:

(a) The recruitment of part-time "peasant soldiers", who continue to live in their communities but participate in armed action against guerrillas, so that they and their communities may be the target of action by the illegal armed groups, including acts of torture and ill-treatment;

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

68. The Committee also expresses its concern at:

(a) The climate of impunity that surrounds human rights violations by State security forces and organs and, in particular, the absence of prompt, impartial and thorough investigation of the numerous acts of torture or other cruel, inhuman or degrading treatment or punishment and the absence of redress and adequate compensation for the victims;

...

(d) The allegations and information indicating:

...

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

...

(e) The numerous forced internal displacements of population groups as a result of the armed conflict and insecurity in the areas in which they live, taking into account the continuing absence in those areas of State structures that observe and ensure compliance with the law;

...

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:

(a) Take firm steps to end impunity for persons thought to be responsible for acts of torture

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or ill-treatment; carry out prompt, impartial and thorough investigations; bring the perpetrators of torture and inhuman treatment to justice; and provide adequate compensation for the victims...

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

(i) The use of "peasant soldiers";

(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;

...

(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;

(f) That in cases of violation of the right to life any signs of torture, especially sexual violence, that the victim may show be documented. That evidence should be included in forensic reports so that the investigation may cover not only the homicide but also the torture. The Committee also recommends that the State party provide medical staff with the training necessary to determine when torture or ill-treatment of any kind has occurred;

(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;

...

- Lithuania, CAT, A/59/44 (2003) 52 at paras. 109 and 110.

109. The Committee expresses concern about the following:

...

(i) The lack of information provided regarding allegations of brutality against conscripts in the army.

110. The Committee recommends that the State party:

...

(f) Ensure that officials in the army promptly investigate reports of brutality against conscripts that may amount to ill-treatment or torture, and investigate other reports of abuse fairly and impartially, and hold those responsible to account;

...

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

54. The Committee notes the following positive developments:

...

(g) The establishment of the National Commission on Political Imprisonment and Torture to identify persons who were deprived of freedom and tortured for political reasons during the military dictatorship, and the assurances by the representative of the State party that its tenure would be extended to permit it to complete its work;

...

55. The constitutional arrangements made as part of the political agreement that facilitated the transition from military dictatorship to democracy jeopardize the full exercise of certain fundamental human rights, according to the State party's report. While being aware of the political dimensions of these arrangements and their shortcomings, and noting that several Governments have previously submitted constitutional amendments to the Congress, the Committee stresses that internal political constraints cannot serve as a justification for non-compliance by the State party with its obligations under the Convention.

56. The Committee expresses concern about the following:

...

(b) The fact that certain constitutional provisions jeopardizing the full exercise of fundamental human rights remain in force, including, in particular, the Amnesty Law, which prohibits prosecution of human rights violations committed from 11 September 1973 to 10 March 1978 and which entrenches the impunity of those responsible for torture, disappearances and other serious human rights violations during the military dictatorship and the lack of reparation for the victims of torture;

...

(d) The continued subordination of the *carabineros* and the civil police forces to the Ministry of Defence, one result of which is that the competence of the military jurisdiction remains excessively broad;

...

(i) The continued provision, in articles 334 and 335 of the Code of Military Justice, of the principle of due obedience, notwithstanding provisions affirming a subordinate's right to protest against orders that might involve committing a prohibited act;

...

(l) That few cases of disappearances have been clarified by the military, despite the Government's efforts to establish a dialogue;

...

57. The Committee recommends that the State party should:

...

(b) Reform the Constitution to ensure the full protection of human rights, including the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment in conformity with the Convention, and to this end abolish the Amnesty Law;

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(c) Transfer responsibility for the *carabineros* and the civil police forces from the Ministry of Defence to the Ministry of the Interior and ensure that the jurisdiction of military courts is limited to crimes of a military nature;

(d) Eliminate the principle of due obedience, which may permit a plea of superior orders, from the Code of Military Justice to bring it into conformity with article 2, paragraph 3, of the Convention;

...

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

...

- Croatia, CAT, A/59/44 (2004) 38 at paras. 77 and 78.

77. The Committee is concerned about the following:

(a) In connection with torture and ill-treatment which reportedly occurred during the 1991-1995 armed conflict in the former Yugoslavia:

(i) The reported failure of the State party to carry out prompt, impartial and full investigations, to prosecute the perpetrators and to provide fair and adequate compensation to the victims;

(ii) Allegations that double standards were applied at all stages of the proceedings against Serb defendants and in favour of Croat defendants in war crime trials;

(iii) The reported harassment, intimidation and threats faced by witnesses and victims testifying in proceedings and the lack of adequate protection from the State party;

...

78. The Committee recommends that the State party:

...

(b) Ensure full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), *inter alia* by ensuring that all indicted persons in their territory are arrested and transferred to the custody of the Tribunal;

(c) Enforce all relevant legislation providing for the protection of witnesses and other

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participants in proceedings and ensure that sufficient funding is allocated for effective and comprehensive witness protection programmes;

...

- Argentina, CAT, A/60/44 (2004) 12 at paras. 31, 34 and 35.

31. The Committee welcomes with satisfaction the efforts made by the State party to combat impunity in respect of crimes against humanity committed under the military dictatorship, and in particular:

(a) The promulgation of Act No. 25.779 in September 2003, declaring the “Due Obedience” and “Clean Slate” Acts absolutely null and void;

(b) The initiation of a significant number of cases in which such violations are being investigated;

(c) The repeal in 2003 of executive decree No. 1581/01, which required the automatic rejection of requests for extradition in cases involving serious and flagrant violations of human rights under the military dictatorship.

...

34. The Committee expresses its concern at the following:

(a) The many allegations of torture and ill-treatment committed in a widespread and habitual manner by the State’s security forces and agencies, both in the provinces and in the federal capital;

...

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

(a) Take vigorous steps to eliminate the impunity of the alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try and, where appropriate, convict the perpetrators of torture and ill-treatment, impose appropriate sentences on them and properly compensate the victims;

...

(c) Improve the quality of the State’s security forces and agencies and enhance their training in respect of human rights, and specifically in respect of the requirements stemming from the Convention;

...

- United Kingdom of Great Britain and Northern Ireland (Crown Dependencies and Overseas

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Territories), CAT, A/60/44 (2004) 16 at paras. 39 and 40.

39. The Committee expresses its concern at:

...

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

...

(h) Reports of incidents of bullying followed by self-harm and suicide in the armed forces, and the need for full public inquiry into these incidents and adequate preventive measures; and

...

40. The Committee recommends that:

...

(f) The State party should make public the result of all investigations into alleged conduct by its forces in Iraq and Afghanistan, particularly those that reveal possible actions in breach of the Convention, and provide for independent review of the conclusions where appropriate;

...

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

...

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

56. The Committee notes:

(a) The definition of torture in the Canadian Criminal Code that is in accordance with the definition contained in article 1 of the Convention and the exclusion in the Criminal Code of the defences of superior orders or exceptional circumstances, including in armed conflict, as well as the inadmissibility of evidence obtained by torture;

(b) The direct application of the criminal norms cited in subparagraph (a) above to the State party's military personnel wherever they are located, by means of the National Defence Act;

...

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- Uganda, CAT, A/60/44 (2005) 39 at paras. 93, 94 and 97.

93. The Committee is...concerned about:

...

(c) The continued allegations of widespread torture and ill-treatment by the State's security forces and agencies, together with the apparent impunity enjoyed by its perpetrators;

(d) The wide array of security forces and agencies in Uganda with the power to arrest, detain and investigate;

...

(h) The magnitude of the problem of abduction of children by the Lord's Resistance Army, in particular in northern Uganda;

...

94. The Committee takes note of the explanation provided by the delegation about the outlawing of "ungazetted" or unauthorized places of detention or "safe houses" where persons have been subjected to torture by military personnel. Nevertheless, it remains concerned about the widespread practice of torture and ill-treatment of persons detained by the military as well as by other law enforcement officials.

...

97. The Committee recommends that the State party take all necessary legislative, administrative and judicial measures to prevent acts of torture and ill-treatment in its territory, and in particular that it:

...

(g) Take vigorous steps to eliminate impunity for alleged perpetrators of acts of torture and ill-treatment, carry out prompt, impartial and exhaustive investigations, try and, where appropriate, convict the perpetrators of torture and ill-treatment, impose appropriate sentences on them and properly compensate the victims;

(h) Minimize the number of security forces and agencies with the power to arrest, detain and investigate and ensure that the police remain the primary law enforcement agency;

(i) Abolish the use of "ungazetted" or unauthorized places of detention or "safe houses", and immediately provide information about all places of detention;

...

(n) Act without delay to protect the civilian population in areas of armed conflict in northern Uganda from violations by the Lord's Resistance Army and members of the security forces. In particular, the State party should protect internally displaced persons confined in camps, which are constantly exposed to attacks from the Lord's Resistance Army;

(o) Take the necessary steps, as a matter of extreme urgency and in a comprehensive manner, to prevent the abduction of children by the Lord's Resistance Army and to facilitate

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the reintegration of former child soldiers into society;

...

- Bahrain, CAT, A/60/44 (2005) 44 at para. 107.

107. The Committee notes the following positive developments:

(a) The extensive political, legal and social reforms on which the State party has embarked, including:

...

(vi) Decree No. 4 of 2001 abolishing the State Security Court which had jurisdiction over offences against the internal and external security of the State and emergency legislation, which are now heard by the ordinary criminal courts;

(vii) Decree No. 11 of 2001 repealing the State Security Law;

...

## **CRC**

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 348 and 349.

348. ...The Committee is...concerned that the minimum and upper age limits have not been set for compulsory education, that a child below the age of 18 years may be recruited into the armed forces with parental consent...

349. The Committee recommends that the State party:

...

(c) Set a minimum age of 18 years for recruitment into the armed forces, without any possibility of recruitment below that age, even with parental consent;

...

- Paraguay, CRC, CRC/C/111 (2001) 103 at paras. 514 and 515.

514. The Committee is deeply concerned that, although the State party's legislation states that the minimum age for recruitment into the armed forces is 18, minors constitute a considerable proportion of conscripts into the Paraguayan armed forces and national police, and very much regrets that its previous recommendation (CRC/C/15/Add. 75, para. 36) in this regard was not implemented. It is deeply worried at the number of cases of torture and ill-treatment of conscripts, including children, by their superiors and at cases of unclarified

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deaths of conscripts, which also involved minors. In particular, it notes with concern that the majority of these deaths and ill-treatment cases were not investigated, and that there are reports of forcible recruitment of children, especially in rural areas, and of falsification of documents proving their age.

515. The Committee urges the State party:

(a) To put an end to the practice of recruiting children into the Paraguayan armed forces and national police, in line with its previous recommendation (CRC/C/15/Add.75, para. 36), and punish those involved in forcible recruitment;

(b) To investigate all cases of ill-treatment and death of conscripts and suspend from duty the officials implicated in such accidents;

(c) To prosecute and punish those responsible for these violations;

(d) To provide compensation to the victims of human rights violations during military service or their families;

(e) To provide training on human rights, including children's rights, to army officials; and

(f) To ratify the Optional Protocol to the Convention on the involvement of children in armed conflict, setting 18 years as the minimum age for all military recruitment.

- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 562 and 563.

562. The Committee is deeply concerned by numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment, including for purposes of extorting confessions. The Committee deplores the insufficient efforts to investigate allegations of torture, as well as the failure to prosecute alleged perpetrators.

563. In the light of article 37 of the Convention, and recalling the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979, the Committee urges the State party to:

(a) Take all necessary effective steps to prevent incidents of ill-treatment from occurring;

(b) Implement the recommendations made by the Human Rights Committee (CCPR/CO/71/UZB), and the Committee against Torture (A/55/44, paras. 76-81);

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(c) Provide the militia with training on how to deal with persons under 18;

(d) Ensure children are adequately informed of their rights when they are arrested and detained;

(e) Ensure that complaints procedures are simplified so that responses are appropriate, timely and child-sensitive, and provide rehabilitative support for victims.

- Greece, CRC, CRC/C/114 (2002) 25 at paras. 121 and 122.

121. Taking note of the State party's indication of its intention to change legislation and define the age of majority uniformly as 18, and noting the Special Committee that has been appointed in this regard, the Committee is concerned:

...

(b) That domestic legislation allows the drafting into the armed forces of children aged 17.

122. The Committee recommends that the State party:

...

(b) Raise, in light of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict signed by the State party in September 2000, the minimum age at which persons can be conscripted into the armed forces to at least age 18.

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 272 and 273.

272. The Committee is concerned:

...

(c) That domestic legislation permits the conscription of children under the age of 18 under certain circumstances.

273. The Committee recommends that the State party:

...

(c) Ensure that domestic legislation prevents the conscription of young people under the age of 18; and consider establishing 18 as the minimum age for voluntary recruitment.

- Guinea-Bissau, CRC, CRC/C/118 (2002) 12 at paras. 49, 50, 78 and 79.

49. The Committee is concerned that:

...

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(b) Boys under age 16 are legally permitted to join the armed forces if they have parental agreement and that children well under the age of 16 were recruited into armed forces in 1998 and 1999, during the internal armed conflict.

50. The Committee recommends that the State party:

...

(b) Clearly define the legal minimum age at which children can be recruited into the armed forces, raising the age limit to comply, at a minimum, with the standards set in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and ensure enforcement of these standards.

...

78. The Committee is concerned that:

(a) Children were involved in the recent internal armed conflict, *inter alia*, as combatants, and that many children may have suffered from psychological trauma as a result;

(b) Child soldiers may not have received support toward demobilization and family and social reintegration;

(c) There continue to be a considerable number of landmines that place children at risk.

79. The Committee recommends that the State party:

(a) Ensure the demobilization of all under-age soldiers, providing such children with assistance to this end and in family and social reintegration;

(b) Take steps to assess and respond to the needs of child soldiers in terms of psychological assistance;

(c) Continue its landmine detection programme;

(d) Seek international assistance in the form of technical support, including from UNICEF, in this regard.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 145 and 146.

145. The Committee is deeply concerned that about one third of the annual intake of recruits into the armed forces are below the age of 18 years, that the armed services target young people and that those recruited are required to serve for a minimum period of four years, increasing to six years in the case of very young recruits. The Committee is also concerned

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at the widespread allegations that young recruits have been the victims of bullying and at the fact that children below the age of 18 years take direct part in hostilities overseas. The Committee remains concerned at the negative impact of the conflict in Northern Ireland on children, including in the use of emergency and other legislation in force in Northern Ireland.

146. The Committee recommends that the State party:

(a) Ratify the Optional Protocol on the involvement of children in armed conflict and take all necessary measures to prevent the deployment of persons below the age of 18 years in the circumstances referred to in the declaration made upon signature by the State party of the Optional Protocol, keeping in mind its object and purpose;

(b) While it recruits persons who have attained the age of 16 years but who have not attained the age of 18 years, endeavour to give priority to those who are the oldest in light of article 38, paragraph 3, of the Convention, and strengthen and increase its efforts to recruit persons of 18 years and above;

(c) In line with its previous recommendations ([CRC/C/15/Add.34], para. 34), review the emergency and other legislation, including in relation to the system of administration of juvenile justice, at present in operation in Northern Ireland to ensure its consistency with the principles and provisions of the Convention.

- Sudan, CRC, CRC/C/121 (2002) 53 at paras. 278 and 279.

278. While noting the demobilization of some children, the Committee is deeply concerned that:

(a) Children are still being used as soldiers by the Government and opposition forces;

(b) Landmines continue to pose problems for the safety of children, including in regions where armed conflict is no longer taking place;

(c) Government forces have conducted indiscriminate bombing of civilian areas, including of food stocks;

(d) Access to needy populations by humanitarian organizations has sometimes been impeded.

279. The Committee recommends that the State party and, as far as applicable, other relevant actors:

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- (a) End all recruitment and use of children as soldiers, in accordance with applicable international standards; complete demobilization and rehabilitate those children who are currently serving as soldiers; and comply with Commission on Human Rights resolution 2001/18;
  - (b) End the military recruitment of professionals working with children, such as teachers;
  - (c) Include respect for children's rights in any negotiated agreement to end the armed conflict;
  - (d) Ratify and fully implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and On Their Destruction, of 1997;
  - (e) Respect the provisions of article 38 of the Convention and related provisions of international humanitarian law with regard to the protection of civilians, including children, in armed conflicts;
  - (f) Guarantee the delivery of humanitarian assistance to the populations in need, and respect the rights of children among civilian populations to, among others, food, water, medical care and adequate housing;
  - (g) Fully cooperate with the United Nations verification team investigating alleged abuses against civilians, including children, during the armed conflict.
- Israel, CRC, CRC/C/121 (2002) 131 at paras. 574, 575, 581, 582, 608, 609, 612 and 613.

574. The Committee is concerned that Israeli legislation discriminates in the definition of the child between Israeli children...and Palestinian children in the occupied Palestinian territories (i.e. persons under 16 in Military Order No. 132).

575. The Committee recommends that the State party rescind the provision of Military Order No. 132 concerning the definition of the child and ensure that its legislation conforms to articles 1 and 2 of the Convention in this regard.

...

581. The Committee deeply regrets the killing and injuring of all children in the State party committed by all actors prior to and during the present armed conflict. It is extremely concerned about the consequences of the climate of terror which seriously harms the development of children.

582. The Committee strongly urges the State party and all relevant non-State actors:

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- (a) To take immediate and all necessary measures to end the violence;
- (b) To take immediate and all necessary measures to ensure that children are not recruited and do not participate in the conflict;
- (c) To investigate immediately and effectively all killings of children and bring the perpetrators to justice;
- (d) To take all necessary measures to provide child victims of these human rights violations with possibilities for adequate compensation, recovery and social reintegration.

...

608. The Committee is seriously concerned about the impact of terrorism on the rights of children in the State party, as well as the impact of military action on the rights of children in the occupied Palestinian territories. Moreover, the Committee is concerned about the insufficient cooperation of the State party in relation to demining efforts in southern Lebanon and the lack of redress available to the child victims of Israeli Defence Forces operations there.

609. The Committee recommends that the State party and other non-State actors:

- (a) Establish and strictly enforce rules of engagement for military and other personnel which fully respect the rights of children as contained in the Convention and protected under international humanitarian law;
- (b) Refrain from using and/or targeting children in the armed conflict and comply fully with article 38 of the Convention, and as much as possible with the Optional Protocol on the involvement of children in armed conflict;
- (c) Provide full support and cooperation for demining efforts in southern Lebanon, and possibilities for adequate compensation, recovery and rehabilitation to the child victims of Israeli Defence Forces actions in southern Lebanon;
- (d) Ratify and fully implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, of 1997.

...

612. The Committee is concerned about:

...

(c) Military Orders Nos. 378 and 1500, as well as all other military orders which may allow prolonged *incommunicado* detention of children, and which do not provide due process guarantees, access to legal assistance and family visits.

613. The Committee recommends that the State party:

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...

(e) Rescind all provisions in the military orders which violate international standards on the administration of juvenile justice.

- Cyprus, CRC, CRC/C/132 (2003) 21 at paras. 145 and 146.

145. The Committee notes that while the minimum age for conscription is 18 years it is possible to volunteer for military service from the age of 17. The Committee is concerned that under-18s may be deployed since no distinction is made between the age for recruitment and deployment.

146. The Committee encourages the State party to clarify the minimum age for voluntary recruitment and take measures to ensure that no one under 18 is deployed as a combatant to armed conflicts.

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 211 and 212.

211. The Committee is concerned that the minimum age for voluntary recruitment in the armed forces according to the current legislation is the “apparent age of 18 years”.

212. The Committee recommends that the State party amend its legislation and take all necessary measures to ensure that the minimum age for military recruitment is strictly fixed by law and leaves no room for interpretation.

- Sri Lanka, CRC, CRC/C/132 (2003) 48 at paras. 271 and 272.

271. Almost 20 years of civil conflict has had an extremely negative impact on the implementation of the Convention in the State party. While recognizing that children will greatly benefit from the peace process, the Committee is concerned that during the transition to peace and the reconstruction process, children who have been affected by the conflict remain a particularly vulnerable group.

272. The Committee recommends that the State party implement the plan of action for the respect of the rights of children during the reconstruction process (2003). In particular, the Committee recommends that the State party:

(a) Prioritize the demobilization and reintegration of all combatants under 18 and ensure that all armed groups reintegrated into the national armed forces adhere to the minimum age of recruitment of 18 years;

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(b) Develop, in collaboration with NGOs [non-governmental organizations] and international organizations, a comprehensive system of psychosocial support and assistance for children affected by the conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees and landmine survivors, which also ensures their privacy;

...

(d) Seek in this regard technical assistance from, among others, UNICEF.

- Libyan Arab Jamahiriya, CRC, CRC/C/132 (2003) 74 at paras. 366 and 367.

366. The Committee is concerned that:

...

(b) Although the age of compulsory recruitment into the armed forces is 18 years, article 1 of Mobilization Act No. 21 of 1991 allows for persons of 17 years to, among other things, engage in combat.

367. The Committee recommends that the State party:

...

(b) Amend article 1 of Mobilization Act No. 21 of 1991 such that persons under 18 mobilized in the context of a general mobilization can serve the war effort without being deployed as active combatants.

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 233 and 234.

233. The Committee is concerned that, in spite of legislation prohibiting the involvement of children in hostilities, there are reports of children being recruited, including forcibly, to participate in armed conflicts, especially in Afghanistan as well as in Jammu and Kashmir.

...

234. The Committee recommends that the State party:

(a) Take effective measures to ensure that children below the age of 18 years are not involved in hostilities and that children below the age of 15 years are not recruited into armed forces;

(b) Develop, in collaboration with NGOs and international organizations, a comprehensive system for the reintegration and recovery of children who have participated in hostilities.

- New Zealand, CRC (Optional Protocol - Armed Conflict), CRC/C/133 (2003) 126 at paras. 592-595.

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592. The Committee welcomes the amendment to the Defence Act (1990) which prohibits anyone under 18 from being liable for active service. However, it is concerned that the Defence Force Orders for Administration (15 February 2002) refer only to active service outside New Zealand and therefore implicitly allow active service inside New Zealand by soldiers below the age of 18.

593. The Committee recommends that the State party amend the Defence Force Order to expressly prohibit active service in and outside of New Zealand by soldiers under the age of 18.

594. The Committee notes that the Defence Force Orders for Administration set the minimum age of voluntary recruitment at 17 years. However, it is concerned that this age limit has not yet been specified in the Defence Act (1990) and that the Guardianship Act allows for persons under the age of 18 who are married to be recruited into the armed forces.

595. The Committee recommends that the State party amend the Defence Act and the Guardianship Act to specify a minimum age of voluntary recruitment of 17 years for all persons. The Committee further recommends that the State party consider the possibility of increasing the minimum age for voluntary recruitment to 18 years.

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 89, 91 and 92.

89. The Committee is deeply concerned at the report of the use of child soldiers, notably in Aceh and Maluku, as well as in East Timor up to 1999.

...

91. The Committee urges the State party:

- (a) To take measures to prevent and end the violence affecting children's lives and rights, especially in areas such as Aceh, Maluku and West Papua;
- (b) To ensure that the application of martial law in Aceh under no circumstances contradicts the rights guaranteed in the Convention on the Rights of the Child;
- (c) To take immediate measures to facilitate access to children and their families by national and international aid and humanitarian agencies, particularly in Aceh;
- (d) To prevent the use of children in armed conflict by regular army, paramilitary and rebel groups;
- (e) To abide faithfully by the principles of human rights law and international humanitarian

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law and the conventions to which Indonesia is party;

(f) To ensure that all persons, including senior officials, who have sponsored, planned, incited, financed or participated in military or paramilitary operations using child soldiers or children as sexual slaves, or violating any rights of the children, will be prosecuted, including those who committed abuses in East Timor in 1999.

92. The Committee recommends that the State party develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict. In particular, the Committee recommends that the State party:

(a) Develop, in collaboration with NGOs [nongovernmental organizations] and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied IDPs [internally displaced persons] and refugees, returnees and smuggled children, which also ensures their privacy;

(b) Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of non-formal education programmes and by prioritizing the rehabilitation of school buildings and facilities and the provision of water, sanitation and electricity in conflict-affected areas;

(c) Criminalize the recruitment and use of children for military purposes by any armed force or armed group;

(d) Provide alternatives to military recruitment, including by increasing employment and education opportunities, particularly for vulnerable children in refugee diaspora and tribal areas.

- Germany, CRC, CRC/C/137 (2004) 51 at paras. 305 and 306.

305. In addition to its concerns related to the declaration made by the State party on article 22 of the Convention, the Committee remains concerned that:

...

(c) Recruitment of children as soldiers is not accepted as a child-specific persecution in the asylum procedure;

...

306. In light of article 7, 22 and other relevant provisions of the Convention, the Committee recommends that the State party take all necessary measures:

...

(c) To consider the recruitment of children as soldiers as a child-specific persecution to be

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accepted in asylum procedure;

...

- Papua New Guinea, CRC, CRC/C/137 (2004) 94 at paras. 518 and 519.

518. While acknowledging the efforts undertaken by the State party to rehabilitate ex-child soldiers, the Committee expresses its concern that there is still a significant number of children suffering from the very harmful effects of armed conflict.

519. The Committee recommends that the State party set up a comprehensive strategy to ensure that no children are involved in armed conflict and that every ex-child soldier is properly rehabilitated and integrated into the society.

- Rwanda, CRC, CRC/C/140 (2004) 36 at paras. 221 and 222.

221. The Committee welcomes the ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict. The Committee further welcomes that Law No. 27/2001 on the Rights of the Child and Protection of Children against Abuse prohibits military service for children under 18 (art. 19), but remains deeply concerned that this law does not apply for the Local Defence Forces. The Committee is further concerned at numerous reports of recruitment of children below the age of 15 years by armed groups operating in the State party or in the Democratic Republic of the Congo. The Committee is also concerned that not all former child soldiers, notably girls, are provided with the means of psychological recovery and social rehabilitation.

222. The Committee recommends that the State party:

(a) Take all necessary measures to ensure that children below the age of 18 years are not recruited in the Local Defence Forces or in any armed group on the territory of the State party;

(b) Make additional efforts to demobilize child soldiers and reintegrate them into their communities and provide for their full psychological recovery and social rehabilitation, paying special attention to girls; and

(c) Seek technical assistance from, among others, UNICEF.

- Liberia, CRC, CRC/C/140 (2004) 67 at paras. 360-363.

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360. The Committee notes that the Comprehensive Peace Agreement of 18 August 2003 recognizes the special demobilization and reintegration needs of child combatants. However, the Committee expresses its extremely deep consternation at the very high number of children who have been forcibly recruited into armed forces and armed groups by all parties involved in the conflict, including children as young as nine years old. The Committee is also concerned that these children have been forced to carry goods and weapons, guard checkpoints and often fight in the front line, while girls have been raped and forced to become servants of the soldiers as well as combatants. The Committee is deeply concerned at the direct effects of the armed conflict on all child victims, including child combatants, and about the tragic loss of life and severe psychological trauma inflicted upon them...

361. The Committee urges the State party:

(a) To take every feasible measure to have all child abductees and combatants released and demobilized and to rehabilitate and reintegrate them in society taking into account, in particular, the specific needs of girls and other vulnerable groups;

(b) In the light of article 38, paragraph 3, to ensure to give priority to those who are the oldest when recruiting young persons and to limit recruitment by all armed forces and groups to persons of 18 years of age or older;

(c) To take all necessary measures, in cooperation with national and international NGOs and United Nations bodies such as UNICEF, to address the physical needs of children victims of the armed conflict, in particular the psychological needs of all children affected directly or indirectly by the traumatic experiences of the war. In this regard, the Committee recommends that the State party develop as quickly as possible a long-term and comprehensive programme of assistance, rehabilitation, reintegration and reconciliation;

...

362. ...The Committee appreciates the attention that the authorities and humanitarian community in Liberia are giving to the issue of sexual assault and the exploitation of refugee and internally displaced girls, as well as to the forcible conscription of refugee and internally displaced boys, but it remains concerned that such acts of assault and forcible conscription still occur in Liberia.

363. In the light of articles 7, 22 and relevant provisions of the Convention, the Committee recommends that the State party:

...

(c) Prevent forcible conscription of refugee and internally displaced boys and provide for their rehabilitation and reintegration into society;

...

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- Myanmar, CRC, CRC/C/140 (2004)81 at paras. 414, 415, 440 and 441.

414. The Committee notes the lack of information regarding ill-conduct by law enforcement officials and army personnel, especially in the light of numerous reports received of torture, serious ill-treatment and sexual abuse, including rape of children by law enforcement officials and army personnel.

415. The Committee recommends that the State party:

(a) Assess the scope, nature and causes of violence against children, in particular sexual violence against girls, with a view to adopting a comprehensive strategy on effective measures and policies and on changing general attitudes;

(b) Duly investigate cases of violence through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and sanction perpetrators, giving due regard to guaranteeing the right to privacy of the child and ensuring that the child is not revictimized during the legal proceedings;

...

440. The Committee welcomes the establishment of the Committee for the Prevention of the Recruitment of Child Soldiers, but is deeply concerned at the direct and indirect impact of the armed conflicts on children in the State party. In particular, the Committee is extremely concerned at the use of children below the age of 15 years as soldiers by both the governmental armed forces and the armed groups as has repeatedly been reported, notably in the last report of the Secretary-General on children and armed conflict (A/58/546-S/2003/1053 and Corr.1 and 2). The Committee is also concerned at the military training provided to pupils attending the Nyunt Youth Programme, which could potentially lead to the militarization of children.

441. In light of articles 34 and 38 and other related articles of the Convention, the Committee recommends that the State party:

(a) Strengthen its efforts to end the armed conflict and to ensure that the protection and promotion of children's rights are given due consideration in any peace negotiations;

(b) Prioritize the demobilization and reintegration of all combatants under 18;

(c) Continue to take measures to ensure that all military recruits meet the minimum age recruitment of 18 years and that they enter voluntarily;

(d) Ensure that all armed groups reintegrated into the national armed forces adhere to the

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minimum age of recruitment of 18 years;

(e) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by the conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees and landmine survivors, while ensuring their privacy;

(f) Take effective measures to ensure that children affected by the conflict can be reintegrated into the education system, including through non-formal education programmes and by prioritizing the restoration of school buildings and facilities and the provision of water, sanitation and electricity in conflict-affected areas; and

(g) Seek in this regard technical assistance from, *inter alia*, UNICEF.

- Democratic People's Republic of Korea, CRC, CRC/C/140 (2004) 111 at paras. 567 and 568.

567. The Committee is concerned that, according to the current legislation, the minimum age for voluntary enlistment in the armed forces is set at 16 years and that, according to information it provided to the Committee on Economic, Cultural and Social Rights (HR/CESCR/NONE/2003/1), children attending school follow military camps during summer holidays, where "they learn how to dismantle and assemble weapons".

568. The Committee recommends that the State party take all necessary measures to ensure that article 38, paragraph 3, of the Convention is respected and to ensure that recruitment is genuinely voluntary when recruiting children between 16 and 18, and that priority will be given to the oldest applicants. The Committee also recommends the State party to ratify the Protocol to the Convention...and increase by law the age for recruitment and voluntary enlistment to 18 years. Furthermore, the Committee recommends that the State party take all necessary measures to avoid the early militarization of children.

- Brazil, CRC, CRC/C/143 (2004) 10 at para. 31.

31. The Committee notes with appreciation the enactment of Law 9299 of 7 August 1996, which transfers from military to civil jurisdiction the right to hear cases of felonious homicide committed by members of the military police.

- Angola, CRC, CRC/C/143 (2004) 78 at paras. 437 and 438.

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437. While welcoming the actions undertaken for the disarmament, demobilization and reintegration of combatants, the Committee is deeply concerned that inadequate attention is given to the plight of former child soldiers, in particular girls. The Committee is also concerned about the situation of children in the enclave of Cabinda, which is still affected by violent conflict.

438. The Committee recommends that the State party ensure that special attention is given to former child soldiers and children, in particular girls, who were domestic workers, porters, etc. All children who participated in military groups should be eligible for rehabilitation programmes. These programmes should include psychosocial rehabilitation and programmes for community integration. Furthermore, the State party should take all necessary measures to provide adequate protection for children in the enclave of Cabinda.

- Austria, CRC (Optional Protocol - Armed Conflict), CRC/C/146 (2005) 57 at paras. 285 and 286.

285. The Committee notes that section 9, paragraph 2, of the National Defence Act sets the minimum age of voluntary recruitment at 17 years. It also notes that according to the State party, “no systematic or comprehensive debate took place in Austria” (CRC/C/OPAC/AUT/1, para. 26) regarding a possible review of legislation to increase this age limit to 18 as “the existing legislation reflected consensus on the minimum age”.

286. The Committee recommends that the State party consider the possibility to increase the minimum age for voluntary recruitment to 18 years.

- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 729 and 730.

729. The Committee is deeply concerned by the impact of communal conflicts on children in Nigeria. The Committee is alarmed by the reports of indiscriminate extrajudicial killings in these conflicts, where children as well as adults are routinely killed, shot to death and burnt. The Committee is seriously concerned at the direct effects of this violence on child victims, including child combatants, and about the severe physical and psychological trauma inflicted upon them. The Committee notes that the State party has signed but not yet ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

730. The Committee recommends the State party to take all possible measures to prevent the occurrence of communal conflicts, and to develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict, and allocate human, technical and financial resources accordingly. In particular, the Committee

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recommends that the State party:

(a) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied IDPs and refugees, returnees;

(b) Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of non-formal education programmes and by prioritizing the restoration of school buildings and facilities and provision of water, sanitation and electricity in conflict-affected areas; and

(c) Ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict as a matter of priority.

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 126, 129, 178, 180 and 181.

126. The Committee expresses its serious concern about violations of the right to life of children, *inter alia*, due to the internal armed conflict. The alleged cases of extrajudicial killings of children by military soldiers in Bulan, Sorsogon, in 2004 and by so-called death squads in Davao and Digos cities during recent years give cause for very serious concern.

...

129. Referring to article 6 and other relevant articles of the Convention, the Committee urges the State party to make every effort to reinforce protection of the right to life, survival and development of all children, *inter alia*, by taking effective measures to prevent extrajudicial killings of children and to investigate thoroughly all alleged cases of killing and bring perpetrators to justice.

...

178. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by the State party in August 2003 and the setting of minimum age of 18 years for recruitment into the national Armed Forces, however, with exception for training purposes. The Committee also takes note with appreciation of the adoption of a Comprehensive Programme Framework for Children in Armed Conflict of 2001 (Presidential Executive Order No. 56) which promotes rescue, recovery and reintegration of children involved in armed conflict. Notwithstanding these positive steps taken by the State party, the Committee expresses its deep concern about children, sometimes as young as 11 years old, being recruited by armed rebel movements, such as the New People's Army, the Moro Islamic Liberation Front, and the Abu Sayyaf Group, to serve as combatants, spies, guards, cooks or medics.

...

180. The Committee recalls that the State party has undertaken to respect and ensure all the rights set forth in the Convention for all children within its jurisdiction at all times. In the

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light of articles 38, 39 and other relevant articles of the Convention, the Committee urges the State party to continue its peace efforts with armed rebel movements in order to urge them to immediately cease the recruitment for and involvement of children in armed conflicts, and to ensure protection of all children who have been involved in armed conflict. The Committee recommends to the State party that it provide children involved in and traumatized by armed conflict with adequate assistance and counselling for their physical and psychological recovery and social reintegration into society in cooperation with national and international non-governmental organizations and United Nations bodies, such as UNICEF. The Committee recommends that the State party provide girl child soldiers with adequate gender-specific rehabilitation and reintegration services.

181. The Committee also recommends that the State party pay particular attention to the implementation of guidelines for Philippine Armed Forces on the treatment of children in armed conflict and ensure that children who are arrested are released from military custody within the prescribed time limits and that children are provided with adequate medical treatment and informed about their rights...

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 362, 363 and 379-381.

362. The Committee is highly alarmed by the number of children who were killed in armed conflicts in the State party. The Committee notes with grave concern the reports of abduction and forcible conscription of children by the armed groups for political indoctrination and for use as combatants, informants, cooks or porters and as human shields. The Committee is equally concerned that Government forces target under 18s suspected of being members of the armed groups and about the highly alarming reports of disappearances and arbitrary detention and of Government forces allegedly using children as spies and messengers. The Committee is also deeply concerned that there are reports of detention of children under the 2004 amendment to the Terrorist and Disruptive Activities (Control and Punishment) Ordinance. The Committee is concerned at the direct effects of this violence on child victims, including child combatants, and about the severe physical and psychological trauma inflicted upon them. The Committee also expresses concern about children who were separated due to the conflict, including children who have fled to India, and that little efforts have been taken by the State party to reunite these families. The Committee is also concerned about the negative impact of the armed conflict on food supplies, education and health care.

363. The Committee recommends that the State party develop a comprehensive policy and programme for implementing the rights of children who have been affected by conflict, and allocate human and financial resources accordingly. In particular, the Committee recommends that the State party:

## **PUBLIC AND PRIVATE ACTORS - MILITARY**

- (a) Criminalize abduction, recruitment and use of children for military purposes by any armed forces or armed group;
  - (b) Establish a separate Rule of Engagement for its security forces with regard to children;
  - (c) Amend or repeal the Terrorist and Disruptive Activities (Control and Punishment) Ordinance in the light of the international juvenile justice standards and norms;
  - (d) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees;
  - (e) Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of informal education programmes and by prioritizing the rehabilitation of school buildings and facilities and provision of water, sanitation and electricity in conflict-affected areas;
  - (f) Ratify the Hague Convention on the Civil Aspects of International Child Abduction;
  - (g) Ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict as a matter of priority;
  - (h) Seek technical assistance from, *inter alia*, OHCHR and UNICEF in this regard, and provide maximum possible cooperation to the newly established office of OHCHR in Nepal.
- ...
379. The Committee is...concerned about the reports of persons under 18 held under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance which has no set minimum age and grants security forces wide powers to arrest and detain any person suspected of being associated with the armed groups, including children.
380. The Committee recommends...the State party, in particular to:
- ...
- (d) Ensure that persons under 18 years are not held accountable, detained or prosecuted under anti-terrorism laws;
- ...
381. The Committee recommends the State party to amend or repeal the Terrorist and Disruptive Activities (Control and Punishment) Ordinance in the light of international juvenile justice standards and norms.