

# **TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

## **IV. CONCLUDING OBSERVATIONS**

### **CERD**

- Bosnia and Herzegovina, CERD, A/48/18 (1993) 87 at para. 467.

Grave concern is expressed about the massive, gross and systematic human rights violations occurring in the territory of Bosnia and Herzegovina, as well as practices of "ethnic cleansing", including forced population transfers, torture, rape, summary executions, the blockading of international humanitarian aid and the commission of atrocities for the purpose of instilling terror among the civilian population. The lack of effective action to bring an end these and other human rights violations is deplored.

- Croatia, CERD, A/48/18 (1993) 90 at para. 498.

The practice of illegal and arbitrary detention, disappearance, torture, deaths in custody and other human rights abuses by armed and paramilitary forces is of concern. Reports of prisons run by private groups who take non-ethnic Croats into custody for the purpose of exchanging them for ethnic Croats held by other forces is also of concern.

- Yugoslavia (Serbia and Montenegro), CERD, A/48/18 (1993) 95 at para. 543.

In conformity with articles 2 and 4 of the Convention, the Government should prohibit racial discrimination and should urgently take vigorous steps to ban racist activities and propaganda. In that connection, it is vital that paramilitary groups be disbanded and that reports of ethnically motivated attacks, including allegations of arbitrary arrests, disappearance and torture, be promptly investigated and those responsible punished.

- Guatemala, CERD, A/50/18 (1995) 58 at para. 307.

Concern is expressed at the numerous excesses by elements of the military and the civilian self-defence patrols (PACs) against indigenous peoples, including summary executions and other cruel, inhuman or degrading treatment, threats and forcible recruitment into the armed forces.

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- Israel, CERD, A/53/18 (1998) 30 at para. 83.

It is of profound concern that detained persons of Arab ethnic origin are disproportionately subjected to inhuman and degrading interrogation under the Landau Commission rules and that the Supreme Court has failed to declare this illegal.

- Yugoslavia, CERD, A/53/18 (1998) 45 at para. 202.

Concern is expressed at persisting violations in Kosovo and Metohija of basic human rights standards, including article 5 (a) and (b) of the Convention, requiring that arrested persons be brought promptly before a judge, and prohibiting torture and ill-treatment of persons in detention or in the course of demonstrations. Equal concern is expressed about the impunity that perpetrators of such violations seem to enjoy.

- Cambodia, CERD, A/53/18 (1998) 55 at para. 286.

Of concern is the lack of independence of the judiciary, as well as the impunity of perpetrators of human rights violations, violations which, in some cases, include summary executions and torture. This contributes to the serious undermining of efforts to establish the rule of law, without which the full implementation of the Convention is not possible.

- Czech Republic, CERD, A/55/18 (2000) 50 at para. 284.

Concern is expressed about the degrading treatment by the police of members of minority groups. The continuation and strengthening of training programmes for police and all officials in charge of implementing the law on issues related to the implementation of the Convention is recommended. The State party is reminded of General Recommendation XIII relating to the implementation of articles 2 and 7 of the Convention.

- Argentina, CERD, A/56/18 (2001) 18 at para. 56.

It is noted with concern that there have been reports of police brutality committed on a variety of pretexts, on grounds of race, colour or ethnic origin. Therefore, it is recommended that in the courses and seminars organized to provide human rights education for members of the police, armed forces, immigration and prison officials, particular attention should be given to the dissemination and implementation of the Convention.

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- Bangladesh, CERD, A/56/18 (2001) 21 at para. 71.

Reports of human rights violations by security forces present in the Chittagong Hill Tracts affecting the tribal population, including reports of arbitrary arrests and detentions and ill-treatment are of concern. It is recommended that the State party implement effective measures to guarantee to all Bangladeshis, without distinction based on race, colour, descent, or national or ethnic origin, the right to security of person and protection by the State against violence or bodily harm.

- Germany, CERD, A/56/18 (2001) 27 at para. 113.

Concern is expressed about repeated reports of racist incidents in police stations as well as ill-treatment inflicted by law enforcement officials on foreigners, including asylum seekers, and German nationals of foreign origin. Although the number of these incidents has diminished recently, the State party is urged to strengthen existing educational measures for civil servants who deal with issues involving foreigners, including asylum seekers, and German nationals of foreign origin.

- Liberia, CERD, A/56/18 (2001) 70 at paras. 436 and 440.

### *Paragraph 436*

Grave concern is expressed about the numerous reported instances of discrimination based on ethnicity. Reports of extrajudicial killings, allegations of torture and rape, and the lack of accountability of perpetrators, including government security forces, for these abuses are of particular concern.

### *Paragraph 440*

The State party should guarantee swift and thorough investigation and prosecution of acts of violence against persons belonging to ethnic and racial groups.

## **ICCPR**

- Algeria, ICCPR, A/47/40 (1992) 61 at para. 299.

Algeria should put an end, as promptly as possible, to the exceptional situation that prevails within its borders and allow all the democratic mechanisms to resume their functioning under fair and free conditions. Attention is drawn to the fact that the Covenant does not permit derogation from certain rights even in times of emergency and that, therefore, any excesses relating to, *inter alia*, the right

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to life, torture and the right to freedom of conscience and expression are violations of the Covenant which should not be allowed to continue.

- Yugoslavia, ICCPR, A/47/40 (1992) 103 at para. 469.

In view of the serious situation prevailing in the State party, the Government should take all necessary measures to stop violations of human rights, particularly those relating to the right to life and the prohibition of torture. These measures should include re-establishment of control over the army, dissolution of paramilitary militias and groups, punishment of those guilty of violations and adoption of measures to prevent a recurrence of such abuses. The Committee also recommends full application of article 27 of the Covenant, which recognizes the right of persons belonging to ethnic, religious or linguistic minorities to enjoy their own culture, to profess and practice their own religion and to use their own language.

- Burundi, ICCPR, A/48/40 vol. I (1993) 16 at paras. 71 and 79.

### *Paragraph 71*

Special concern is expressed about the cases of extrajudicial executions and of torture in connection with the upheavals that took place in 1988, 1991 and 1992. In that connection, no derogation from articles 6 and 7 of the Covenant is permitted under any circumstances.

### *Paragraph 79*

The general inadequacy of the legal and other measures designed to promote and protect human rights and, especially, the various constitutional limitations on the effective enjoyment of human rights, are of concern. The cases of extrajudicial executions and of torture documented in the reports prepared by the Special Rapporteurs of the Commission on Human Rights on those subjects and also as reported by various non-governmental organizations are alarming. In that connection, it is noted that no derogations from articles 6 and 7 of the Covenant are permitted under any circumstances. It is also noted that effective remedies to victims of human rights violations, as envisaged in article 2, paragraph 3, of the Covenant, are not available.

- Senegal, ICCPR, A/48/40 vol. I (1993) 23 at paras. 103 and 112.

### *Paragraph 103*

The lack of investigation into allegations of extrajudicial executions and torture by members of the army or police is of concern. Of particular concern is the danger that the amnesty laws might be used to grant impunity to officials responsible for violations, who should be brought to justice.

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### *Paragraph 112*

The Committee does not agree with the Government's contention that the provisions of the Covenant must be interpreted and applied against the background of the conditions prevailing in the country. Rather, all efforts should be made to bring those conditions into conformity with internationally agreed human rights standards. The passiveness of the Government in conducting timely investigations of reported cases of ill-treatment of detainees, torture and extrajudicial executions is not consistent with the provisions of articles 7 and 9 of the Covenant. To achieve full compliance with article 4 of the Covenant, greater efforts are also needed to ensure the proper protection of human rights under a state of emergency. The Committee considers that amnesty should not be used as a means to ensure the impunity of State officials responsible for violations of human rights and all such violations, especially torture, extrajudicial executions and ill-treatment of detainees should be investigated and those responsible for them tried and punished.

- United Republic of Tanzania, ICCPR, A/48/40 vol. I (1993) 35 at paras. 173 and 185.

### *Paragraph 173*

The application of corporal punishment in schools and other institutions is considered degrading treatment. Children should be treated with respect for their integrity and teachers should be able to maintain authority without resorting to such primitive measures. The use of flogging and similar punishments in sentencing is not compatible with the Covenant.

### *Paragraph 185*

Of concern is the continued use of corporal punishment, the application of which is degrading and inhuman treatment.

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at paras. 258 and 266.

### *Paragraph 258*

The application of measures of punishment of extreme severity, such as flogging, lapidation and amputation, is not compatible with the provisions of article 7 of the Covenant. There are also serious questions about requiring repentance from detainees as a condition of their release from custody.

### *Paragraph 266*

Effective measures should be adopted to ensure the strictest observance of articles 7 and 10 of the Covenant. All complaints of extrajudicial executions, disappearances, torture and ill-treatment should be duly investigated, the culprits should be punished and measures should be taken to prevent any recurrence of such acts. Severe forms of punishment incompatible with the Covenant should be removed from law and practice and the conditions of detention of persons deprived of their liberty

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should be improved. Training courses should be organized for members of the police, the armed forces and the security forces as well as for other law enforcement officials, so as to better acquaint them with basic human rights principles and norms.

- Venezuela, ICCPR, A/48/40 vol. I (1993) 61 at para. 308.

It is of concern that custody can last as long as 16 days and it is emphasized that it is precisely during such periods that accused persons are most vulnerable, particularly to acts of torture or ill-treatment.

- Niger, ICCPR, A/48/40 vol. I (1993) 88 at para. 423.

The cases of extrajudicial executions and torture that occurred in the context of the disturbances in 1991 and 1992 in the north of the country are of extreme concern and the fact that these cases have not, to date, been the subject of investigations or compensation on the part of the authorities is deplored. It is recalled that the Covenant does not authorize, in any case, derogations from articles 6 and 7 of the Covenant.

- Dominican Republic, ICCPR, A/48/40 vol. I (1993) 95 at paras. 451, 452, 460, 461 and 465.

### *Paragraph 451*

Concern is expressed over the protection of the rights of detainees. The police did not always respect the right to life, the practice of torture was uncontrolled, ill-treatment of detainees was a widespread practice, and the Government frequently did not investigate complaints, despite its obligation to do so. Additionally, the penalties for police and armed forces personnel found guilty of using torture were inadequate. The police did not obey court orders to release suspects and preventive detention extended well beyond the 48-hour period mandated by law.

### *Paragraph 452*

Concern is expressed over reported firearms abuses by members of the military and the police, particularly with regard to the excessive use of force by the police, including extrajudicial killings, torture and the ill-treatment of detainees. The inadequacy of the current system for appointing members of the judiciary is emphasized, as is the need for an independent judiciary. In its absence, individuals would continue to be denied recourse when their rights were violated. Furthermore, the Dominican Republic needed to establish a truly independent agency for the investigation of complaints regarding human rights abuses.

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### *Paragraph 460*

The lack of protection afforded to Haitians living or working in the country from such serious human rights abuses as forced labour and cruel, inhuman or degrading treatment is of concern. Concern is also expressed over the fact that the protection of the fundamental human rights of foreigners is subject to reciprocity.

### *Paragraph 461*

The Committee is concerned about the large number of detainees awaiting trial, which is particularly worrisome in view of the high number of cases of alleged police abuse during detention and reports of unhealthy prison conditions.

### *Paragraph 465*

Measures should be undertaken immediately to reduce the backlog of persons in detention awaiting trial and the number of exceptions to the 48-hour rule should be significantly reduced. Much more severe sanctions are needed to effectively discourage torture and other abuses by prison and law enforcement officials. Steps should also be taken to tighten the regulations governing the use of firearms by police. Training courses in international human rights standards should be provided for police and prison officials.

- Uruguay, ICCPR, A/48/40 vol. I (1993) 102 at para. 504.

While there is no systematic use of torture, there are occurrences of serious maltreatment of detainees. Such occurrences indicate a lack of proper training of prison and law enforcement officials and an inadequate understanding of international standards concerning the treatment of detainees.

- Egypt, ICCPR, A/48/40 vol. I (1993) 139 at paras. 705 and 707.

### *Paragraph 705*

The many severe measures taken by the Egyptian Government to combat terrorism in the country are of concern. The measures taken to do so should not prejudice the enjoyment of the fundamental rights enshrined in the Covenant, in particular, its articles 6, 7 and 9.

### *Paragraph 707*

Concern is expressed at the duration and conditions of police custody and administrative detention, which are likely to expose accused persons to torture and ill-treatment by the police and security forces, as demonstrated by numerous allegations reported by reliable non-governmental sources of information.

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- Bulgaria, ICCPR, A/48/40 vol. I (1993) 149 at para. 753.

Not all cases of torture that took place under the former regime have had redress and the harassment of Bulgarian citizens of Turkish ethnic origin that took place under the former regime have lingering negative effects for citizens belonging to that group.

- Mexico, ICCPR, A/49/40 vol. I (1994) 33 at para. 172.

The large number of complaints concerning acts of torture or arbitrary detention is disturbing when prosecution and sentencing of the guilty parties occurs very infrequently and falls far short of the recommendations of the National Human Rights Commission of Mexico, which has condemned these acts.

- Cameroon, ICCPR, A/49/40 vol. I (1994) 36 at paras. 193, 194 and 203.

### *Paragraph 193*

The multiple cases of torture, ill-treatment, extrajudicial execution and illegal detention, suffered in particular by journalists and political opponents are deplored. Torture and ill-treatment seem to be practised systematically by the security forces, and on several occasions their brutality has caused the death of the victims.

### *Paragraph 194*

The fact that such brutality is practised in prisons, as well as the non-respect for the provisions of article 10 of the Covenant in detention centres where men and women, convicted and unconvicted prisoners, adult and juvenile offenders are held in the same, generally insalubrious cells, are deplored.

### *Paragraph 203*

All necessary measures should be taken to prevent summary executions, torture, ill-treatment and illegal detention, all such cases should be investigated in order to bring those suspected of having committed such acts before the courts, and those found guilty should be punished and the victims compensated.

- El Salvador, ICCPR, A/49/40 vol. I (1994) 38 at para. 214.

It is of concern that, despite the signing of the peace accord over two years ago, the rule of law has not yet been effectively re-established. It is also of concern that human rights violations continue in El Salvador, particularly serious and systematic violations of the right to life carried out by



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paramilitary groups. In this regard, it is noted with alarm that politically motivated summary and arbitrary executions, death threats and cases of torture have continued to occur since the signing of the peace accord.

- Jordan, ICCPR, A/49/40 vol. I (1994) 41 at paras. 234 and 241.

### *Paragraph 234*

The guarantees contained in articles 7, 9, 10 and 14 of the Covenant are not fully complied with. In particular, torture and ill-treatment of persons deprived of liberty continue to be reported. Cases of administrative detention, denial of access of detainees to legal counsel, long periods of pre-trial detention without charges and incommunicado detention are also matters of great concern.

### *Paragraph 241*

Necessary measures should be taken to ensure that torture, ill-treatment and illegal detention do not occur and any such cases should be investigated in order to bring those suspected of having committed such acts before the courts and to punish them if found guilty.

- Togo, ICCPR, A/49/40 vol. I (1994) 44 at para. 249.

The internal disturbances in Togo during the period under review, which have resulted in serious and systematic violations of the rights guaranteed by the Covenant, particularly articles 4, 6, 7, 9, 10 and 14, are noted with concern. Despite initiation of the democratic process, the rule of law has not yet been re-established in Togo and violations of human rights continue to occur. Consequently, a significant gap persists between constitutional and legal norms and their application in practice. In that context, the manifold obstacles faced by the National Human Rights Commission, which, unfortunately, is no longer operative and which is unable to contribute to the promotion of respect for human rights, are of concern.

- Italy, ICCPR, A/49/40 vol. I (1994) 47 at paras. 278 and 285.

### *Paragraph 278*

The ill-treatment of persons by police and security forces in public places and police stations is of concern. The increasing number of cases of ill-treatment in prisons is also of concern. The Government does not always investigate those cases thoroughly, torture, as such, is not punishable in domestic law and, consequently, appropriate sanctions are not always imposed on those found guilty.

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### *Paragraph 285*

The State party is urged to consider making torture a specific criminal offence. In addition, measures should be strengthened to protect the rights of detainees by promptly investigating allegations of ill-treatment and ensuring that appropriate penalties are applied whenever such offences are committed; the commission of such acts should be prevented through efforts to ensure the stricter observance of regulations relating to the treatment of detainees and offenders; and the length of preventive detention should be reduced, taking into account the principle of presumption of innocence and the complexity of the investigation. More effective and thorough human rights training should be provided to law enforcement officials and prison officers.

- Azerbaijan, ICCPR, A/49/40 vol. I (1994) 50 at para. 298.

The events that have occurred recently in Azerbaijan in the context of the armed conflict and that have involved numerous violations of the rights guaranteed by the Covenant are deeply deplored. There have been reports of cases of summary execution, enforced or involuntary disappearance, torture and other acts of violence against the person, as well as arbitrary detention. Such violations have not been investigated and the persons responsible for them have therefore not been punished, nor have the victims or their families been compensated.

- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at paras. 318 and 329.

### *Paragraph 318*

The reported cases of torture or cruel, inhuman or degrading treatment of detainees by police and the failure to secure conviction and punishment of any of the perpetrators is of concern. In this connection, the extended nature of pre-trial detention in Cyprus, during which time detainees may be vulnerable to possible police abuse, is noted with concern. Police officers and other law enforcement officials are not provided with adequate education and training with regard to the provisions of the Covenant concerning arrest and detention procedures.

### *Paragraph 329*

Steps should be taken to ensure the investigation of all allegations of torture or mistreatment of detainees and the prosecution and punishment of all persons guilty of such acts. The length of pre-trial detention should be significantly shortened and adequate training should be provided for all law enforcement officials to promote observance of the protection afforded by the Covenant. Instructions on the use of force by police should be updated to conform with the requirements of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

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- Burundi, ICCPR, A/49/40 vol. I (1994) 58 at para. 361.

The massacres following clashes between Hutus and Tutsis that have occurred in Burundi since consideration of the initial report in October 1992 and the increasingly serious obstacles to the peaceful coexistence of the various elements of the Burundi population are deplored. The attempts to restore civil peace, to assuage the tensions of daily life in society and to redress the balance in the various State institutions, particularly the army, the police, the gendarmerie, the security forces and the judiciary, so as to make them more representative of the various elements of the population, have clearly failed. The pattern of gross violations of human rights in the form of numerous summary executions, disappearances and instances of torture which occurred following the events of autumn 1993 is also deplored. The army, the police, the gendarmerie and the security forces have continued to be responsible for many violations of human rights. The civilian population continues to be armed and further violations of human rights are to be feared.

- Argentina, ICCPR, A/50/40 vol. I (1995) 35 at paras. 154, 156 and 161.

### *Paragraph 154*

It is regretted that evidence presented to the Senate against members of the armed forces, proving that they have engaged in extrajudicial executions, forced disappearances, torture, or other violations of human rights, may in some cases prevent the promotion of those accused, but does not in itself cause their dismissal.

### *Paragraph 156*

Cases of excessive use of force, torture and arbitrary or unlawful detentions committed by members of the police and the armed forces are of concern. It is of concern that there is no clear mechanism for investigating complaints of police violence to ensure there will be no reprisals against complainants, that where provincial administrations are lax in dealing with allegations of police violence, the federal authorities do not ensure compliance with the Covenant, and that the perpetrators of acts of police violence generally are not punished and the victims are not compensated. The delay in resolving the situation of children of disappeared persons and the failure of the report to provide any information at all on the real situation as it relates to article 7 of the Covenant is especially disturbing.

### *Paragraph 161*

All necessary steps should be taken to prevent cases of excessive use of force, torture, arbitrary detention or extrajudicial execution by members of the armed forces or the police. These steps should include preventive, disciplinary and punitive measures, as well as appropriate training. All violations should be investigated and the victims compensated.

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- Paraguay, ICCPR, A/50/40 vol. I (1995) 42 at paras. 206 and 216.

### *Paragraph 206*

The continuing occurrence of torture and ill-treatment of detainees, even after the restoration of democracy in 1989, is of concern. In this connection, concern is expressed over the remaining officials who are identified and committed to the authoritarian practices of the former regime.

### *Paragraph 216*

The State party is urged to continue to investigate allegations of human rights violations, past and present, for which purpose all archives of the past regime should be carefully explored. The State party should further act on the findings of its investigations, bring to justice the perpetrators and provide proper compensation to the victims, particularly with respect to continuing occurrences of torture and ill-treatment by the police and security forces. An independent and credible mechanism should be instituted for dealing with complaints of police violence and the existence of this mechanism should be publicized.

- Haiti, ICCPR, A/50/40 vol. I (1995) 46 at para. 230.

The effects of the Amnesty Act, agreed upon during the process which led to the return of the elected Government of Haiti, are of concern. It is of concern that, despite the limitation of its scope to political crimes committed in connection with the *coup d'état* or during the past regime, the Amnesty Act might impede investigations into allegations of human rights violations, such as summary and extrajudicial executions, disappearances, torture and arbitrary arrests, rape and sexual assault, committed by the armed forces and agents of national security services. An amnesty in wide terms may promote an atmosphere of impunity for perpetrators of human rights violations and undermine efforts to re-establish respect for human rights in Haiti and to prevent a recurrence of the massive human rights violations experienced in the past.

- Yemen, ICCPR, A/50/40 vol. I (1995) 49 at paras. 254, 256 and 262.

### *Paragraph 254*

Deep concern is expressed at the allegations of arbitrary deprivation of life, acts of torture or other cruel, inhuman or degrading treatment, arbitrary arrest and detention, abusive treatment of persons deprived of their liberty, and violations of the rights to a fair trial. It is of deep concern that those violations were not followed by inquiries or investigations, that the perpetrators of such acts were not punished, and that the victims were not compensated.

### *Paragraph 256*

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The maintenance of corporal punishments like amputation of limbs and whipping, which are in violation of article 7 of the Covenant, is of deep concern.

### *Paragraph 262*

The Government should take the initiative for the total abolishment of corporal punishment.

- United States of America, ICCPR, A/50/40 vol. I (1995) 52 at paras. 281, 286, 296, 297 and 300.

### *Paragraph 281*

The excessive number of offences punishable by the death penalty in a number of states, the number of death sentences handed down by courts, and the long stay on death row which, in specific instances, may amount to a breach of article 7 of the Covenant, are of concern.

### *Paragraph 286*

It is of concern that, in some states, non-therapeutic research may be conducted on minors or mentally-ill patients on the basis of surrogate consent in violation of the provisions in article 7 of the Covenant.

### *Paragraph 296*

The determination of methods of execution must take into account the prohibition against causing avoidable pain and it is recommended that the State party take all necessary steps to ensure respect of article 7 of the Covenant.

### *Paragraph 297*

All necessary measures should be taken to prevent any excessive use of force by the police; rules and regulations governing the use of weapons by the police and security forces should be in full conformity with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; any violations of these rules should be systematically investigated in order to bring those found to have committed such acts before the courts; and those found guilty should be punished and the victims should be compensated.

### *Paragraph 300*

Further measures should be taken to amend any federal or state regulation which allow, in some states, non-therapeutic research to be conducted on minors or mentally-ill patients on the basis of surrogate consent.

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at para. 317.

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It is of particular concern that torture and ill-treatment of persons committed by members of the police and other security forces continue to be reported, particularly to the Public Prosecutor's Office. In this regard, it is of concern that the right to personal security may be restricted without any involvement of a judicial body.

- Latvia, ICCPR, A/50/40 vol. I (1995) 62 at para. 344.

It is noted with concern that the Latvian legal system has not yet provided for effective mechanisms of investigation in respect of violations of human rights, as required under article 2, paragraph 3, of the Covenant. The need to make effective remedies available to any person whose rights are violated is particularly urgent in respect of the obligations embodied in articles 7, 9 and 10 of the Covenant.

- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at paras. 378, 389, 390 and 396.

### *Paragraph 378*

Grave concern is expressed over the lack of a monitoring mechanism for penitentiary facilities to ensure humane treatment of detainees and prisoners. In this regard, the cruel, inhumane and degrading conditions that persist in many detention centres and penitentiary facilities are deplored and the use of food deprivation as punishment is condemned.

### *Paragraph 389*

The excessive and disproportionate use of force by Russian forces in Chechnya, indicating grave violations of human rights is deplored. The fact that no one has been made responsible for the inhumane treatment of prisoners and other detained persons, that investigations on charges of human rights violations by Russian forces, including killing of civilians, have so far been inadequate, that civilian installations such as schools and hospitals were destroyed by government forces, and that a large number of civilians have been killed or displaced as a consequence of the destruction of their homes is further deplored.

### *Paragraph 390*

The large number of reported cases of torture, ill treatment of the person and arbitrary detention in "reception centres" or "filtration camps", which were originally established to determine the identities of captured combatants, but are reported to accommodate large numbers of civilians as well, is of deep concern. The maltreatment of detainees in these centres is deplored and it is of concern that the International Committee of the Red Cross (ICRC) has not been given access to all such camps.

### *Paragraph 396*

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The treatment of persons deprived of their liberty, whether in detention centres or in penitentiary facilities should be effectively monitored. In this connection, new rules and regulations should be adopted that comply fully with articles 7, 9, 10 and 14 of the Covenant and the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the texts of all prison rules and orders and international norms on prison administration should be made public and accessible. It is recommended that priority be given to the establishment of the Visitors' Committee for the correctional institutions of the Federation and that legislation on the judicial review of arrest and detention be urgently passed in compliance with article 9, paragraph 3, of the Covenant, and article 22, paragraph 2, of the Constitution. The Government is urged to refrain from placing first-time, non-violent and petty offenders in detention centres, and to give consideration to various other practical measures designed to reduce the overcrowding of pre-trial detention centres, particularly the greater use of release pending trial. An immediate end to the practice of food deprivation as punishment in prisons is called for and the Government's initiatives to institute alternative forms of punishment are encouraged.

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/50/40 vol. I (1995) 72 at paras. 426 and 434.

### *Paragraph 426*

It is regretted that corporal punishment may still be permitted in certain circumstances in independent schools.

### *Paragraph 434*

Corporal punishment administered to privately funded pupils in independent schools should be abolished.

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at paras. 450 and 467.

### *Paragraph 450*

The information received of cases of loss of life of civilians, disappearances, torture, and summary executions and arbitrary detention caused by both parties in conflict is of serious concern. It is noted with particular concern that an effective system for the prevention and punishment of such violations does not appear to exist. In addition, violations and abuses allegedly committed by police officers have not been investigated by an independent body, and frequently the perpetrators of such violations have not been punished. This may contribute to an atmosphere of impunity among the perpetrators of human rights violations and constitute an impediment to the efforts being undertaken to promote respect for human rights.

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### *Paragraph 467*

Noting that the definition of torture given in the Convention Against Torture Act passed by Parliament on 25 November 1994 is somewhat restrictive, the Act should be amended to bring it into conformity with article 7 of the Covenant, taking into account the Committee's General Comment No. 20(44). It is further recommended that corporal punishment be revoked.

- Estonia, ICCPR, A/51/40 vol. I (1996) 19 at paras. 116, 130 and 131.

### *Paragraph 116*

It is noted that the definition of torture in article 114 of the Criminal Code is limited to physical force and does not encompass psychological torture and duress.

### *Paragraph 130*

With regard to article 7 of the Covenant, the Committee strongly recommends that article 114 of the Criminal Code be reviewed so as to ensure its compliance with the broader scope of torture, under the Covenant, and calls the attention of the authorities to its General Comment No. 20 (44).

### *Paragraph 131*

Immediate steps should be taken to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person, in conformity with articles 7 and 10 of the Covenant.

- Spain, ICCPR, A/51/40 vol. I (1996) 24 at para. 176.

Concern is expressed over the numerous reports received regarding the ill-treatment and even torture inflicted on persons suspected of acts of terrorism by members of the security forces. It is noted with concern that investigations are not always systematically carried out by the public authorities and that when members of the security forces are found guilty of such acts and sentenced to deprivation of liberty, they are often pardoned or released early, or simply do not serve the sentence. Moreover, those who perpetrate such deeds are seldom suspended from their functions for any length of time.

- Zambia, ICCPR, A/51/40 vol. I (1996) 29 at para. 210.

The authorities should take the necessary steps to ensure that torture, ill-treatment and illegal detention do not occur and that any such cases are duly investigated by an independent authority in order to bring before the courts those accused of having committed such acts and to punish them if found guilty.



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- Guatemala, ICCPR, A/51/40 vol. I (1996) 33 at para. 233.

The cases of violence against the repatriated population, which have resulted in extrajudicial executions, disappearances and torture or ill-treatment, are of concern. In this connection, the conduct of members of the civil self-defence patrols (PACs) who have availed themselves of their position to harass repatriated persons is of concern.

- Nigeria, ICCPR, A/51/40 vol. I (1996) 37 at paras. 263, 284 and 298.

### *Paragraph 263*

It is of concern that there does not appear to have been any serious investigations into allegations of torture, ill-treatment or conditions of detention, which raises serious issues under article 7 of the Covenant.

### *Paragraph 284*

The high number of extrajudicial and summary executions, disappearances, cases of torture, ill-treatment, and arbitrary arrest and detention by members of the army and security forces and the failure of the Government to investigate these cases fully, prosecute alleged offences, punish those found guilty and provide compensation to the victims or their families are matters of deep concern. The resulting state of impunity encourages further violations of Covenant rights.

### *Paragraph 298*

Effective measures should be taken to prevent arbitrary, extrajudicial and summary executions as well as torture, ill-treatment, and arbitrary arrest and detention by members of the security forces, and to investigate any such cases in order to bring before the courts those suspected of having committed or participated in such crimes, to punish them if found guilty, and to provide compensation to victims or to their families.

- Brazil, ICCPR, A/51/40 vol. I (1996) 44 at paras. 312, 313 and 324.

### *Paragraph 312*

The prevalence of torture, arbitrary and unlawful detention, death threats and acts of violence against prisoners committed by security forces, particularly by the military police, is of deep concern.

### *Paragraph 313*

The Committee deplores the fact that cases of summary and arbitrary executions, torture, death threats, arbitrary and unlawful detention and violence against detainees and other prisoners are

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seldom properly investigated and very frequently go unpunished. Members of security forces implicated in gross human rights violations enjoy a high level of impunity.

### *Paragraph 324*

Immediate and effective steps should be taken to prevent and combat human rights violations by members of the security forces, especially cases of summary and arbitrary executions, torture, excessive use of force and arbitrary detention. These steps should include the education and sensitization of law enforcement officials, particularly the military police, about human rights. Campaigns and programmes should be developed accordingly and the systematic incorporation of human rights education in all training activities should be ensured.

- Peru, ICCPR, A/51/40 vol. I (1996) 48 at paras. 354, 355, 360 and 361.

### *Paragraph 354*

The cases of disappearances, summary executions, torture, ill-treatment and arbitrary arrest and detention by members of the army and security forces and the Government's failure to investigate those cases fully, prosecute alleged offences, punish those found guilty and provide compensation to the victims and their families are matters of deep concern. The failure to resolve the high number of cases of past disappearances is of particular concern.

### *Paragraph 355*

The persistent reports of torture or cruel, inhuman or degrading treatment of persons detained under suspicion of involvement in terrorist activities or other criminal activities are of concern. Attention is also drawn to the legislation which permits incommunicado detention in certain cases. In this connection, it is reiterated that incommunicado detention is conducive to torture and that, consequently, the practice should be avoided.

### *Paragraph 360*

Effective measures should be taken to investigate allegations of summary executions, disappearances, torture and ill-treatment, and arbitrary arrest and detention, to bring the perpetrators to justice, to punish them and to compensate victims. If allegations of such crimes have been made against members of the security forces, whether military or civilian, the investigations should be carried out by an impartial body that does not belong to the organization of the security forces themselves. Persons convicted of such crimes should be dismissed and, pending the outcome of the investigation, be suspended from office.

### *Paragraph 361*

Urgent measures should be taken to strictly limit incommunicado detention. Provisions should be made in the Penal Code to criminalize acts that are committed for the purpose of inflicting pain,

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without prejudice as to whether those acts result in permanent injury.

- Gabon, ICCPR, A/52/40 vol. I (1997) 24 at para. 138.

All legal provisions or executive orders should be reviewed to ensure their compatibility with articles 7, 9 and 10 of the Covenant and their effective implementation in practice. Urgent steps should be taken to review the duration of police custody and preventive detention and to ensure the independent investigation of all allegations of ill-treatment by police and prison officers.

- Peru, ICCPR, A/52/40 vol. I (1997) 28 at para. 160.

It is noted with concern that the law still contains a provision exempting a rapist from punishment if he marries his victim and another which classifies rape as an offence prosecutable privately. It is also of concern that abortion gives rise to a criminal penalty even if a woman is pregnant as a result of rape, and that clandestine abortions are the main cause of maternal mortality. Those provisions not only mean that women are subject to inhumane treatment, but are possibly incompatible with articles 3, 6 and 7 of the Covenant.

- Bolivia, ICCPR, A/52/40 vol. I (1997) 35 at para. 218.

The State party is urged to investigate allegations of human rights violations, to act on the findings of its investigations, to bring to justice the perpetrators and to provide proper compensation to the victims, particularly with respect to continuing occurrences of torture and ill-treatment by the police and security forces. An independent mechanism should be instituted for dealing with complaints of police violence and the existence of this mechanism should be publicized.

- Georgia, ICCPR, A/52/40 vol. I (1997) 40 at paras. 240, 241 and 253.

### *Paragraph 240*

The fact that some capital sentences appear to have been imposed in cases where confessions were obtained under torture or duress or following trials where the guarantees provided under article 14 of the Covenant were not respected, particularly the right to have a case reviewed by a higher court (art. 14, para. 5, of the Covenant), is deplored.

### *Paragraph 241*

Concern is expressed over cases of torture inflicted on individuals deprived of their liberty, including

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for the purpose of extracting confessions. The fact that these and other acts of torture usually go unpunished and that, in many cases, a lack of confidence in the authorities keeps the victims from lodging complaints is deplored.

### *Paragraph 253*

Systematic and impartial investigations into all complaints of ill-treatment and torture should be undertaken, persons charged with violations as a result of these investigations should be brought to trial, and victims should be compensated. Confessions obtained under duress should be systematically excluded from judicial proceedings and all convictions based on confessions allegedly made under torture should be reviewed.

- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at paras. 278 and 296.

### *Paragraph 278*

The Committee deplores extrajudicial executions, murders, torture and other degrading treatment, forced disappearances and arbitrary arrests, carried out by members of the armed forces, the police and paramilitary and guerrilla groups. Journalists, human rights activists, trade union and political leaders, teachers, members of indigenous populations and judges appear to be specifically targeted.

### *Paragraph 296*

Special measures should be adopted, including protective measures, to ensure that members of various social sectors, particularly journalists, human rights activists, trade union and political leaders, teachers, members of indigenous populations and judges, are able to exercise their rights and freedoms, including freedom of expression, assembly and association, without intimidation of any sort. The authorities are urged to take stringent measures to ensure full protection of the rights of victims of "social cleansing", particularly their rights under articles 6 and 7 of the Covenant.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at para. 346.

Concern is expressed over well-substantiated allegations of acts of torture and cruel, inhuman and degrading treatment committed by the police, the Lebanese security forces and non-Lebanese security forces operating within the State party's territory, the occurrence of arbitrary arrest and detention, searches operated without warrants, abusive treatment of individuals deprived of their liberty, and violations of the right to a fair trial. The State party should investigate the credible allegations of instances of ill-treatment and torture which have been brought to the Committee's attention.

- France, ICCPR, A/52/40 vol. I (1997) 62 at para. 403.

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The number and serious nature of the allegations received regarding the ill-treatment by law enforcement officials of detainees and other persons who come into conflictual contact with them, including unnecessary use of firearms resulting in a number of deaths, the risk of such ill-treatment being much greater in the case of foreigners and immigrants, is of concern. It is also of concern that in most cases there is little, if any, investigation of complaints of such ill-treatment by the internal administration of the police and the *gendarmerie nationale*, resulting in virtual impunity. No independent mechanism exists to receive individual complaints from detainees. Therefore, the State party should take appropriate measures to remedy this state of affairs and reduce the level of use of solitary confinement. The State party should also establish an independent mechanism to monitor detention centres and to receive and deal with individual complaints of ill-treatment by law enforcement officials. The State party is urged to introduce, in the training of law enforcement officials at all levels, a comprehensive course in human rights along the lines suggested in the United Nations Training Manual for Law Enforcement Officers.

- India, ICCPR, A/52/40 vol. I (1997) 67 at paras. 433 and 438.

### *Paragraph 433*

The continued reliance on special powers under legislation such as the Armed Forces (Special Powers) Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and the serious human rights violations, in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups is of concern. The Committee endorses the views of the National Human Rights Commission that the problems in areas affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problems must also, essentially, be political, and emphasizes that terrorism should be fought with means that are compatible with the Covenant.

### *Paragraph 438*

Concern is expressed at allegations that police and other security forces do not always respect the rule of law and that, in particular, court orders for *habeas corpus* are not always complied with, particularly in disturbed areas. Concern is also expressed over the incidence of custodial deaths, rape and torture, and at the failure of the Government of India to receive the United Nations Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment. Therefore, it is recommended that:

- (a) legislation for mandatory judicial inquiry into cases of disappearance and death, ill-treatment or rape in police custody be enacted early;

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- (b) special measures be adopted to prevent the occurrence of rape of women in custody;
- (c) the mandatory notification of relatives of detainees be carried out without delay;
- (d) the right of detainees to legal advice and assistance and to have a medical examination be guaranteed; and
- (e) priority be given to providing training and education in the field of human rights to law enforcement officers, custodial officers, members of the security and armed forces, and judges and lawyers, and that the United Nations Code of Conduct for Law Enforcement Officials be taken into account in this regard.

- Senegal, ICCPR, A/53/40 vol. I (1998) 13 at paras. 60 and 61.

### *Paragraph 60*

In the context of events in Casamance, the allegations received regarding the indiscriminate killing of civilians by the army and police, of disappearances, and of ill-treatment and use of torture against persons suspected of being supporters of the Mouvement des forces démocratiques de Casamance (MFDC) are of concern. Measures should be taken to ensure the full observance of articles 6 and 7 by military personnel and police, and the effective implementation, in practice, of article 7 of the Covenant *vis à vis* people suspected of being MFDC sympathizers. It is also recommended that, especially because of the distance from the capital and the region's proximity to neighbouring states, that consideration be given to establishing an independent mechanism to monitor and investigate human rights abuses in Casamance, and that persons found responsible for violations of rights be brought to justice and the victims compensated. Further training in human rights should be provided for all security and law enforcement personnel.

### *Paragraph 61*

It is regretted that certain traditional cultural attitudes with respect to women are not compatible with their dignity as human beings and continue to hamper their equal enjoyment of rights embodied in the Covenant. The persistent custom of female genital mutilation, which violates articles 6 and 7 of the Covenant, and the high rate of maternal mortality which results from that practice, from early child birth and from the strict prohibition of abortion, is disturbing. Judges and lawyers should make use of ordinary criminal law provisions to deal with instances of female genital mutilation until a specific law for this offence, the adoption of which the Committee strongly supports, is enacted. The State party should launch a systematic campaign to promote popular awareness of persistent negative attitudes towards women and to protect them against all forms of discrimination. The State party should abolish practices prejudicial to women's health and reduce maternal mortality. Legislation, including family and inheritance laws, should be brought into conformity with articles 2(1), 3, 6, 7,

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23 and 26 of the Covenant.

- Jamaica, ICCPR, A/53/40 vol. I (1998) 15 at para. 83.

Deep concern is expressed over the fact that the Flogging Regulation Act, 1903 and the Crime (prevention of) Act, 1942 are still in force, which provide for and regulate corporal punishment both as a penalty for certain crimes and as a penalty for breach of prison rules or other regulations. In this regard, both Acts should be repealed, as they are contrary to article 7 of the Covenant.

- Iraq, ICCPR, A/53/40 vol. I (1998) 18 at paras. 97, 98 and 101.

### *Paragraph 97*

The reports from many sources concerning the high incidence of summary executions, arbitrary arrests and detention, torture and ill-treatment by members of security and military forces, disappearances of many named individuals and of thousands of people in northern Iraq and in the southern marshes, and forced relocations, are of concern. In this respect, the lack of transparency on the part of the Government in responding to these concerns is regretted. The statement by the delegation that a non-governmental committee has been established to deal with disappearances is also noted, and it is regretted that information on its functions or on its powers to investigate cases of involuntary disappearance, to bring those found responsible to justice and to otherwise prevent and combat disappearances in Iraq was not obtainable. Therefore, it is recommended that all allegations mentioned above be fully, publicly and impartially investigated, that the results of such investigations be published and that the perpetrators of those acts be brought to justice.

### *Paragraph 98*

It is regretted that temporary decrees adversely affecting the implementation of certain Covenant rights have recently been enacted by the Revolutionary Command Council. Certain provisions of these decrees, which the State party has sought to justify on the ground that they are provisional, are incompatible with certain non-derogable Covenant rights, such as the right to life, the prohibition of torture and the principle of non-retroactivity of criminal laws. A thorough review of existing temporary laws and decrees should be undertaken with a view to ensuring their compliance with the provisions of the Covenant. In this regard, it is stressed that Covenant rights may be derogated from only in accordance with article 4 of the Covenant.

### *Paragraph 101*

It is of deep concern that Iraq has resorted to the imposition of cruel, inhuman and degrading punishments, such as amputation and branding, which are incompatible with article 7 of the Covenant. Similarly, concern is also expressed over the Revolutionary Command Council (RCC) Decree No.

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109 of 18 August 1994, which stipulates that any person whose hand has been amputated for a crime thus punishable by law shall be branded between the eyebrows with an "X" symbol, by the application of this decree retroactively to persons whose hands have already been amputated, and by the explanation given by the delegation that this punishment was imposed to distinguish convicted offenders from persons mutilated in the war. The imposition of such punishments should cease immediately, and all laws and decrees providing for their imposition, including RCC Decree No. 109 of 1994, should be revoked without delay.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at paras. 119-121, 123, 127 and 133.

### *Paragraph 119*

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

### *Paragraph 120*

Flogging, amputation and stoning, which are recognized as penalties for criminal offences, are not compatible with the Covenant. Penalties which are inconsistent with articles 7 and 10 must be abolished.

### *Paragraph 121*

The high maternal mortality rate in the Sudan, which may be the consequence of early marriage, clandestine abortions and female genital mutilation, is of concern. The practice of female genital mutilation in the Sudan is of deep concern, particularly because it is practised on female minors who may suffer the consequences throughout their lives. This practice constitutes cruel, inhuman and degrading treatment and violates articles 7 and 24 of the Covenant. The State party should forbid, as a matter of law, the practice of female genital mutilation, making it a discrete criminal offence. Social and educational campaigns should be pursued to eliminate the practice.

### *Paragraph 123*

The number of reports of extrajudicial executions, torture, slavery, disappearances, abductions and other human rights violations from United Nations and NGO sources, and the delegation's assertions that such human rights violations are relatively infrequent are of concern. In this connection, concern is extended to reports of abduction of children by security forces, particularly in the south. It is



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therefore recommended that:

- (a) Permanent and independent mechanisms be set up to investigate alleged abuses of power by police, security forces and the Popular Defence Forces;
- (b) The methodology of such investigations and their outcome be made public;
- (c) Such investigations should lead to the release of any person improperly detained, with proper compensation, and to disciplinary or criminal proceedings against those found responsible;
- (d) The Government of the Sudan should continue to cooperate with United Nations bodies and non-governmental organizations on these matters.

### *Paragraph 127*

Lashes should be excluded as a punishment.

### *Paragraph 133*

The official enforcement of strict dress requirements for women in public places, under the guise of public order and morality, and the inhuman punishment imposed for breaches of such requirements are of concern.

- Belarus, ICCPR, A/53/40 vol. I (1998) 26 at para. 145.

The numerous allegations of ill-treatment of persons by police and other law enforcement officials during peaceful demonstrations and on arrest and detention, and the high number of cases in which police and other security officials resort to the use of weapons are of concern. Noting that investigations of such abuses are not conducted by an independent mechanism and that the number of prosecutions and convictions in these cases is very low, the Committee expresses concern that these phenomena may lead to impunity for members of the police and other security officials. Therefore, in order to combat impunity, steps should be taken to ensure that all allegations of ill-treatment and unlawful use of weapons by security and police officials are promptly and impartially investigated by an independent body, that the perpetrators are prosecuted and punished, and that the victims are compensated. Moreover, in accordance with paragraph 10 of the Committee's General Comment No. 20 (44) on article 7 of the Covenant, "enforcement personnel, (...) police officers and any other persons involved in the custody or treatment of any individual subjected to any form of arrest, detention or imprisonment must receive appropriate instruction and training" concerning the ban on torture and other cruel, inhuman or degrading treatment prohibited by article 7 and the observance of other human rights norms.

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- Lithuania, ICCPR, A/53/40 vol. I (1998) 30 at paras. 169 and 172.

### *Paragraph 169*

The reported cases of harassment and use of excessive force by members of the army against conscripts and of police brutality against detainees are of concern. An independent investigation mechanism should be established to inquire into all cases of alleged brutality committed by members of the police or the army. Intensive training and education programmes in the field of human rights for members of the army and law enforcement officials are also recommended to ensure their observance of the Covenant, especially its articles 7, 9 and 10.

### *Paragraph 172*

Provision should be made to ensure that persons are not deported to states where they may face a real risk of violation of their rights under articles 6 and 7 of the Covenant.

- Cyprus, ICCPR, A/53/40 vol. I (1998) 33 at para. 199.

The State party is urged to take firm measures to ensure an effective remedy to any victim of brutality, ill-treatment or torture by the police. Every possible measure should be taken, including increased public information activities, to educate the public on redress mechanisms available at the national level, their mandates and their functioning, to correct the apparent reluctance of victims of violence and ill-treatment to testify before the relevant instances.

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at para. 223.

Corporal punishment is incompatible with article 7 of the Covenant.

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

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

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- Ecuador, ICCPR, A/53/40 vol. I (1998) 43 at paras. 280 and 284.

### *Paragraph 280*

The information that article 23 of the Constitution prohibits the enacting of amnesty legislation or granting pardons for human rights violations; that torture, enforced disappearances and extrajudicial executions have no statute of limitation; and that obedience to superior orders cannot be invoked as an extenuating circumstance are welcomed. Also welcomed is the information that the jurisdiction of the military tribunals has been limited to members of the armed forces in the exercise of their official functions; that these tribunals have no jurisdiction over civilians; and that cases of human rights violations by members of the army and the security forces fall under the jurisdiction of civilian courts.

### *Paragraph 284*

The very high number of suicides of young females, which appear in part to be related to the prohibition of abortion, is of concern. The State party's failure to address the resulting problems faced by adolescent girls, in particular rape victims, who suffer the consequences of such acts for the rest of their lives, is regretted. Such situations are, from both the legal and practical standpoints, incompatible with articles 3, 6 and 7 of the Covenant, and with article 24 when female minors are involved. All necessary legislative and other measures should be adopted to assist women, and particularly adolescent girls, faced with the problem of unwanted pregnancies to obtain access to adequate health and education facilities.

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

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

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- Algeria, ICCPR, A/53/40 vol. I (1998) 52 at paras. 357 and 358.

### *Paragraph 357*

The Committee is deeply concerned over persistent allegations of systematic torture. The Committee deplores the apparent routine acceptance by trial court judges of confessions extracted under duress, even when there is medical evidence of torture, and calls on the State party to take all necessary measures to redress this situation. The Committee urges the State party to ensure:

- (a) a credible system for monitoring treatment of all detainees so as to ensure that they are not subject to torture or to cruel, inhuman or degrading treatment;
- (b) that all specific allegations are investigated by an impartial body and that the results of such investigations are published; and
- (c) that officials involved in torture are prosecuted and, if convicted, severely punished.

### *Paragraph 358*

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

- The Former Yugoslav Republic of Macedonia, ICCPR, A/53/40 vol. I (1998) 55 at para. 378.

The persons responsible for reported cases of abuse of police authority, including unlawful arrest and detention, excessive use of force - especially against members of minority groups - and physical ill-treatment of detainees, should be subjected to appropriate disciplinary or penal sanctions. Training programmes on human rights for the police should be strengthened and permanent mechanisms should be established for ongoing instruction with the participation of international agencies and experts in the field.

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- United Republic of Tanzania, ICCPR, A/53/40 vol. I (1998) 57 at paras. 400 and 401.

### *Paragraph 400*

Noting with approval the Nyalali Commission's recommendation to abolish corporal punishment as a judicial sentence, such penalty should also be precluded for offences against prison regulations and children should no longer be subjected to corporal punishment in schools (article 7).

### *Paragraph 401*

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

- Belgium, ICCPR, A/54/40 vol. I (1999) 26 at paras. 87 and 88.

### *Paragraph 87*

The practice (pursuant to article 53 of the Act of 8 April 1965 on the protection of young persons), which entitles the authorities to incarcerate minors for a period of 15 days, raises questions not only under article 10 but under articles 7 and 24 as well.

### *Paragraph 88*

The practice of keeping psychiatric patients in prison psychiatric annexes for several months before transferring them to hospitals that treat mental disorders (*établissement de protection sociale*) is incompatible with articles 7 and 9 of the Covenant and should be discontinued.

- Armenia, ICCPR, A/54/40 vol. I (1999) 29 at para. 108.

A special independent body should be established to investigate complaints of torture and ill-treatment by law enforcement personnel.

- Libyan Arab Jamahiriya, ICCPR, A/54/40 vol. I (1999) 32 at paras. 130-132.

### *Paragraph 130*

The Committee is deeply concerned about persistent allegations of systematic use of torture and cruel, inhuman or degrading treatment or punishment. Positive note is taken of the data offered by the delegation about investigations carried out in some cases and of punishment of those responsible

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for such acts, as well as of the indemnity given to victims. A more efficient system should be enforced for monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party is urged to ensure that all cases of alleged torture or ill-treatment are investigated by an impartial body, that the results of such investigations are published and that officials responsible for torture and ill-treatment are prosecuted and, if convicted, severely punished. Training courses on human rights should be conducted for law enforcement personnel.

### *Paragraph 131*

Flogging, recognized in the Libyan Arab Jamahiriya as a penalty for criminal offences, is incompatible with article 7 of the Covenant. The imposition of such punishment should cease immediately and all laws and regulations providing for its imposition should be repealed without delay. Amputation, although not used in practice, should be formally abolished.

### *Paragraph 132*

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

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at paras. 161, 163 and 169.

### *Paragraph 161*

Allegations of violence and sexual harassment of persons detained pending immigration procedures, including harsh conditions of detention, the use of handcuffs and detention in isolation rooms are of concern. Persons held in immigration detention centres may remain there for periods of up to six months and, in some cases, even up to two years. The conditions of detention should be reviewed and, if necessary, measures should be taken to bring the situation into compliance with articles 7 and 9 of the Covenant.

### *Paragraph 163*

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

### *Paragraph 169*

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The Committee is deeply concerned at many aspects of the prison system in Japan, which raise serious questions of compliance with articles 2, paragraph 3 (a), 7 and 10 of the Covenant. Specifically, the Committee is concerned with the following:

- (a) Harsh rules of conduct in prisons that restrict the fundamental rights of prisoners, including freedom of speech, freedom of association and privacy;
- (b) Use of harsh punitive measures, including frequent resort to solitary confinement;
- (c) Lack of fair and open procedures for deciding on disciplinary measures against prisoners accused of breaking the rules;
- (d) Inadequate protection for prisoners who complain of reprisals by prison warders;
- (e) Lack of a credible system for investigating complaints by prisoners; and
- (f) Frequent use of protective measures, such as leather handcuffs, that may constitute cruel and inhuman treatment.

- Austria, ICCPR, A/54/40 vol. I (1999) 42 at paras. 186 and 188.

### *Paragraph 186*

There is no provision in the Code of Criminal Procedure whereby a statement by way of confession must, if challenged, be proved not to have been extracted by means of torture or ill-treatment. Steps should be taken to amend the Code of Criminal Procedure in this regard.

### *Paragraph 188*

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

- Chile, ICCPR, A/54/40 vol. I (1999) 44 at para. 206.

An independent body with authority to receive and investigate all complaints of excessive use of force

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and other abuses of power by the police and other security forces should be established. The sole possibility of resort to court action cannot serve as a substitute.

- Canada, ICCPR, A/54/40 vol. I (1999) 48 at para. 235.

It is of concern that Canada takes the position that compelling security interests may be invoked as a justification of the removal of aliens to countries where they may face a substantial risk of torture or cruel, inhuman or degrading treatment. Article 7 requires that a State party never expel, extradite, deport or otherwise remove a person to a place where treatment or punishment contrary to article 7 is a substantial risk. The Government should revise its policy in order to comply with the requirements of article 7.

- Lesotho, ICCPR, A/54/40 vol. I (1999) 51 at paras. 255, 259 and 263.

### *Paragraph 255*

The practice of female genital mutilation is contrary to human dignity and violates various human rights, including the right to life and the right to protection against cruel, inhuman and degrading treatment. The practice should be made punishable under law and educational programmes should be undertaken in this regard.

### *Paragraph 259*

The State party should establish an independent authority, consisting of respected civilians to receive and investigate complaints of torture and ill-treatment, provide redress to the victims and prosecute those responsible for such torture and ill-treatment.

### *Paragraph 263*

The State party should take the measures necessary to abolish the corporal punishment of detainees.

- Cambodia, ICCPR, A/54/40 vol. I (1999) 57 at paras. 302 and 305.

### *Paragraph 302*

A permanent and independent human rights monitoring body should be established by legislation, with adequate powers and resources to receive and investigate allegations of torture or other abuses of power by public officials.

### *Paragraph 305*

Action should be taken without delay to prevent the physical and mental coercion of accused persons



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and the beating of detainees, the rape of women prisoners by prison guards, and the use of shackles and chains in prisons. Action should also be taken without delay to investigate alleged violations and bring the perpetrators to justice, and ensure that confessions obtained by force are excluded from evidence, that women prisoners are guarded only by female warders, and that there are effective procedures for making and investigating complaints by prisoners and detainees.

- Mexico, ICCPR, A/54/40 vol. I (1999) 61 at paras. 318 and 328.

### *Paragraph 318*

It is of the gravest concern that not all forms of torture are necessarily covered by law in all Mexican states, and that there is no independent body to investigate the substantial number of complaints regarding acts of torture and cruel, inhuman or degrading treatment. It is also a matter of concern that the acts of torture, enforced disappearances and extrajudicial executions which have taken place have not been investigated; that the persons responsible for those acts have not been brought to justice; and that the victims or their families have not received compensation. The State party must take the necessary measures to attain full compliance with articles 6 and 7 of the Covenant, including measures to provide remedies against torture in all the states of Mexico.

### *Paragraph 328*

Effective measures should be taken to protect the security of women, to ensure that no pressure is brought to bear on them to deter them from reporting violations, such as abduction, murder, and the rape or torture of women in detention by security forces, and to ensure that all allegations of abuse are investigated and the perpetrators brought to justice

- Poland, ICCPR, A/54/40 vol. I (1999) 65 at para. 348.

Firm measures should be adopted to eradicate the army practice of subjecting new recruits to abuse and humiliation.

- Morocco, ICCPR, A/55/40 vol. I (2000) 24 at para. 107.

Firm measures should be adopted to eradicate the practice of torture, to enact legislation to make torture a criminal offence and to exclude the admissibility in evidence of any confession or statement obtained by torture or duress; appropriate mechanisms should be established for independent monitoring of police detention centres and penitentiaries, all reports of torture and ill-treatment must be investigated, the persons responsible should be prosecuted, and victims of torture must be granted compensation.

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- Republic of Korea, ICCPR, A/55/40 vol. I (2000) 29 at paras. 143 and 144.

### *Paragraph 143*

The procedures for the monthly monitoring of conditions in detention centres by prosecutors are noted, but it is of concern that these and other mechanisms are not adequate to prevent instances of torture or cruel, inhuman and degrading treatment of detainees. The small percentage of cases in which complaints of torture or cruel, inhuman and degrading treatment lead to action against officials calls into question the credibility of the existing procedures of investigation. Non-compliance by the State party with the requirements of article 9 of the Covenant, and the seemingly widespread reliance of the prosecuting authorities and the courts on confessions by accused persons and accomplices, facilitate acts of torture and cruel, degrading and inhuman treatment by interrogating officials.

### *Paragraph 144*

The establishment of an independent body to investigate allegations of torture should not be delayed.

- Cameroon, ICCPR, A/55/40 vol. I (2000) 36 at paras. 208 and 214.

### *Paragraph 208*

To secure compliance with articles 6 and 7 of the Covenant, firm measures must be taken to limit the use of force by the police, to investigate all complaints regarding the use of force by the police and appropriate action must be taken when the use is in violation of the relevant regulations.

### *Paragraph 214*

An independent mechanism to investigate reports of torture by police officials should be established in order to comply with article 7.

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

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

- Congo, ICCPR, A/55/40 vol. I (2000) 43 at para. 278.

Effective measures should be taken, in accordance with articles 7 and 10 of the Covenant, to combat torture, to criminalize torture and other cruel, inhuman or degrading treatment or punishment in

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internal law, to punish the perpetrators of such crimes and, in future, to avoid treating cases of torture as simple cases of voluntary infliction of blows and wounds.

- United Kingdom of Great Britain and Northern Ireland (Jersey, Guernsey and the Isle of Man), ICCPR, A/55/40 vol. I (2000) 47 at para. 306.

Corporal punishment in schools should be outlawed through the adoption of legislation.

- Guyana, ICCPR, A/55/40 vol. I (2000) 53 at para. 362.

The practice of corporal punishment should be eliminated through legal and other measures.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 389, 390, 397, 412 and 413.

### *Paragraph 389*

Instances of torture, inhuman treatment and abuse of power by law enforcement officials are of grave concern.

### *Paragraph 390*

The Criminal Code should be amended to ensure that acts of torture are indictable offences and that all allegations of torture are properly investigated and the persons responsible prosecuted (art. 7). Complaints about torture and other abuses by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. An independent system of monitoring all places of detention should be instituted with the purpose of preventing torture and other abuses of power by law enforcement officials.

### *Paragraph 397*

Concern remains about inhuman prison conditions. This is characterized by overcrowding, inadequate food and medical care, and by the fact that convicted persons are frequently not kept segregated from the accused and that juvenile offenders are frequently detained in the same detention centres as adults (art. 10).

### *Paragraph 412*

The continued existence of child labour, the problem of mistreatment of children in some educational institutions, cruel punishment, and the phenomenon of trafficking in children are of concern.

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### *Paragraph 413*

The State party must urgently address the issues described above so as to ensure the special protection to which children are entitled under article 24 of the Covenant. Specifically, corporal punishment must be prohibited.

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at para. 445.

The State party should ensure that women are not compelled to continue with pregnancies where that is incompatible with obligations arising under the Covenant (art. 7) and General Comment No. 28.

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 470, 473 and 474.

### *Paragraph 470*

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

### *Paragraph 473*

Reported cases of abuses by the Kuwaiti police, in contravention of articles 7 and 10 of the Covenant, are of concern. The State party's increased cooperation with international institutions such as the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, which facilitate international monitoring of prison conditions, is noted.

### *Paragraph 474*

All cases of abuse by the police and prison personnel should be investigated by independent authorities, action should be taken against perpetrators, and victims should be granted compensation.

- Trinidad and Tobago, ICCPR, A/56/40 vol. I (2001) 31 at paras. 72(13)-72(15) and 72(18).

### *Paragraph 72(13)*

Apart from prohibiting corporal punishment for persons under 18 years of age, the State party is still practising the punishments of flogging and whipping which are cruel and inhuman punishments prohibited by article 7. Sentences of flogging or whipping should immediately be abolished.

### *Paragraph 72(14)*

That problems relating to the police force (such as corruption, brutality, abuse of power and obstacles placed in the way of police personnel who seek to correct such practices), identified over the last decade have still not been rectified is regretted. That there is little reduction in the numbers of

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complaints of harassment and battery submitted in 1999 and 2000 is of concern. The Plan of Action now in preparation should reinforce reforms already made and ensure that the culture of the force genuinely becomes one of public service; dereliction of duty, harassment and battery (among other things) by police officers should be the subject of swift disciplinary or criminal proceedings (arts. 2.1, 2.2. and 7).

### *Paragraph 72(15)*

The Committee supports the expressed concern of the Trinidad and Tobago Police Complaints Authority about the inadequacy of reports from the Police Complaints Division and failure of that Division adequately to report on continuing complaints in important categories. The Complaints Division should improve the contents of its reports and accelerate its reporting process so as to enable the Police Complaints Authority thoroughly to fulfil its statutory functions and so that violations of articles 7 and 9.1 may be properly investigated.

### *Paragraph 72(18)*

Legal limitations on abortion should be reappraised and restrictions which may risk violation of women's rights be removed from the law, by legislation if necessary (arts. 3, 6.1 and 7).

- Denmark, ICCPR, A/56/40 vol. I (2001) 34 at para. 73(13).

The extended use of solitary confinement for persons incarcerated following conviction, and especially for those detained prior to trial and conviction, is of particular concern. Solitary confinement is a harsh penalty with serious psychological consequences and is justifiable only in case of urgent need; the use of solitary confinement other than in exceptional circumstances and for limited periods is inconsistent with article 10, paragraph 1, of the Covenant. Denmark should reconsider the practice of solitary confinement so as to assure that it is imposed only in cases of urgent need.

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at paras. 74(5), 74(11) and 74(12).

### *Paragraph 74(5)*

Recent developments in which some of those responsible for the most serious violations of human rights, including forced disappearances, torture and removal of children from their parents for purposes of illegal adoption or trafficking, are being brought to trial, are welcomed.

### *Paragraph 74(11)*

That prison conditions fail to meet the requirements of articles 7 and 10 of the Covenant is of deep concern. The severe overcrowding and the poor quality of basic necessities and services, including food, clothing and medical care, are incompatible with the right to be treated with humanity and with

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respect for the inherent dignity of the human person to which all persons are entitled. It has been established, in addition, that there are abuses of authority by prison officials, such as torture and ill-treatment, and corruption. While noting the plans under way to construct new prison facilities, immediate attention should be paid to the need to provide adequately for the basic necessities of all persons deprived of their liberty.

### *Paragraph 74(12)*

In relation to article 7 of the Covenant, questions of torture and excessive use of force by police officials were not adequately dealt with in the present report. Allegations indicating that this is a widespread problem and that government mechanisms established to address it are inadequate are of concern.

- Peru, ICCPR, A/56/40 vol. I (2001) 45 at paras. 76(5), 76(15) and 76(20).

### *Paragraph 76(5)*

It is regarded as a positive sign that, under Act No. 26,926 of 21 February 1998, torture has been characterized as an offence in the chapter of the Penal Code on crimes against humanity.

### *Paragraph 76(15)*

The continuing practice of one year's isolation for convicted and unconvicted prisoners, in accordance with the regulations on the living conditions and progressive treatment of prisoners who are difficult to rehabilitate, those awaiting trial or sentenced for ordinary offences or for terrorism or treason, is of concern. Such isolation may be extended when the person concerned breaks a rule, however minor. The State party is urged to review this practice, which affects the physical and mental health of persons deprived of their liberty and constitutes cruel, inhuman or degrading treatment or punishment, thus hampering full compliance with articles 7 and 10 of the Covenant.

### *Paragraph 76(20)*

It is a matter of concern that abortion continues to be subject to criminal penalties, even when pregnancy is the result of rape. Clandestine abortion continues to be the main cause of maternal mortality in Peru. These provisions are incompatible with articles 3, 6 and 7 of the Covenant. The legislation should be amended to establish exceptions to the prohibition and punishment of abortion.

- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at paras. 77(8), 77(11) and 77(17).

### *Paragraph 77(8)*

The reports of torture and excessive use of force by the police and other security forces in breach of article 7 of the Covenant; the State party's apparent delay in responding to such occurrences; and the

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absence of independent mechanisms to investigate the reports in question are of deep concern. The right of recourse to the courts is not a substitute for such mechanisms. The State party should establish an independent body empowered to receive and investigate all reports of excessive use of force and other abuses of authority by the police and other security forces, to be followed, where appropriate, by prosecution of those who appear to be responsible for them. The State party is also urged to pass laws giving effect to the prohibition of torture and cruel, inhuman and degrading treatment laid down in article 7 of the Covenant and article 46 of the Constitution, and strengthen the human rights education programmes for all State officials whose functions are related to the treatment of detainees.

### *Paragraph 77(11)*

Conditions in prisons and places of detention are of concern, since the delegation itself acknowledged that most human rights violations in Venezuela occur in such places. The recently established institutional mechanisms (supervising prosecutors and prison-supervising judges) for supervising conditions in prisons and investigating the complaints of prisoners should be strengthened with a view to the implementation of articles 7 and 10 of the Covenant.

### *Paragraph 77(17)*

The level of violence against women is of concern, including the many reported cases of kidnapping and murder that have not resulted in arrests or prosecution of those responsible. The many allegations of rape or torture of women in custody by members of the security forces, offences such women do not dare to report, are also of concern. All the foregoing gives rise to serious concerns in the light of articles 6 and 7 of the Covenant. The State party should take effective measures to guarantee women's safety, ensure that no pressure is put on them to dissuade them from reporting such violations, that all allegations of abuses are investigated and that those committing such acts are brought to justice.

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at paras. 78(9), 78(12), 78(16) and 78(17).

### *Paragraph 78(9)*

It is noted with concern that, despite being prohibited by the Constitution (art. 8.1), torture is widespread, occurring in prisons and elsewhere, that not all its forms are classified as crimes under the law and that no independent body exists to investigate the many complaints of torture and cruel, inhuman or degrading treatment. Reports that acts of torture have not been investigated, that the perpetrators of those acts have in the majority of cases not been brought to trial and that victims and their families have not been compensated are also cause for concern. The State party should take prompt action to comply fully with article 7 of the Covenant and to have violations thereof investigated so that the culprits may be tried and punished by ordinary courts and redress provided.

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### *Paragraph 78(12)*

The power to hold prisoners *incommunicado* continues to provoke deep concern. The State party should revise the law to ensure that detention *incommunicado* does not violate articles 7, 9 and 10 of the Covenant.

### *Paragraph 78(16)*

The continuing reports of mass expulsions of ethnic Haitians, even when such persons are nationals of the Dominican Republic, are of grave concern. Mass expulsions of non-nationals are in breach of the Covenant since no account is taken of the situation of individuals for whom the Dominican Republic is their own country in the light of article 12, paragraph 4, nor of cases where expulsion may be contrary to article 7 given the risk of subsequent cruel, inhuman or degrading treatment, nor yet of cases where the legality of an individual's presence in the country is in dispute and must be settled in proceedings that satisfy the requirements of article 13. The State party should guarantee the right of every Dominican national not to be expelled from the country and ensure that all persons facing deportation proceedings are covered by the safeguards established in the Covenant.

### *Paragraph 78(17)*

Concern is expressed over the failure to protect Haitians living or working in the Dominican Republic from serious human rights abuses such as forced labour and cruel, inhuman or degrading treatment. Concern is also expressed over the living and working conditions of Haitian workers and the tolerated practices that restrict their freedom of movement. The State party should give priority to addressing the issue of the working and living conditions of Haitian workers, and ensure that those workers can take advantage of the rights and safeguards laid down in articles 8, 17 and 22 of the Covenant.

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at paras. 79(7)-79(9), 79(11), 79(13), 79(21) and 79(27).

### *Paragraph 79(7)*

Taking into account article 7 of the Covenant, consistent allegations of widespread torture, inhuman treatment and abuse of power by law enforcement officials are of concern. The limited number of investigations into allegations of torture are also of concern. The State party should ensure that all allegations of torture are properly investigated and the persons responsible prosecuted. Complaints about torture and other forms of abuses by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. The State party should institute an independent system of monitoring and checking all places of detention and penal institutions on a regular basis with the purpose of preventing torture and other abuses of power by law enforcement officials. Free access to lawyers, doctors and family members should be guaranteed immediately after the arrest and during all stages of detention.



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### *Paragraph 79(8)*

It is appreciated that the recently established Constitutional Court delivered a judgment holding that statements made under duress would not be admissible in evidence. The assurance by the State party's delegation that any allegation of torture by a defendant will lead to an immediate discontinuation of the case and a separate examination of the truthfulness of the allegation is noted. However, allegations of the continued use of torture and other forms of inhuman treatment by law enforcement officials, particularly for the purposes of extorting confessions, in violation of article 7 and article 14, paragraph 3(g), of the Covenant, are of concern. Allegations that judges refuse to take into account any evidence provided by the accused with regard to his/her treatment by law enforcement officials is also of concern. The State party must ensure that all allegations of ill-treatment by public officials, which are brought before the courts by detainees, are investigated by the presiding judge and the persons responsible prosecuted. The State party must ensure that no one is compelled to testify against himself or herself or to confess guilt.

### *Paragraph 79(9)*

Conditions in detention centres and penal institutions in Uzbekistan continue to be of concern. Numerous allegations of deaths in prisons and the return of marked and bruised corpses to the families of detainees are of particular concern. The State party should ensure that measures are taken to improve conditions in detention centres and penal institutions so that they are compatible with articles 7 and 10 of the Covenant. The State party should ensure that all persons deprived of their liberty are treated with humanity and respect for their dignity, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

### *Paragraph 79(11)*

The Committee is concerned that from the time the accused is arrested, and throughout the judicial procedure, until the final judgement, the accused continues to be in the hands of and under the authority of the police or the Ministry of the Interior. The State party should ensure that promptly after apprehension the accused is removed from the custody of the authorities responsible for law enforcement and brought under the jurisdiction of the authorities responsible for the administration of justice, thus minimising the risks of a violation of articles 7, 9, paragraphs 1 and 2, and 10, paragraph 1, of the Covenant.

### *Paragraph 79(13)*

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

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### *Paragraph 79(21)*

Cases of children being detained, arrested and held in custody without being able to exercise their right to a lawyer, and subjected to ill-treatment and unlawful investigative methods, in contravention of articles 7, 10, and 24 of the Covenant, are of concern. The lack of information on this subject and on the policy the State party intends to pursue to address this problem is also of concern. The State party should enact a new criminal procedure law to deal specifically with juveniles.

### *Paragraph 79(27)*

While the establishment of a 24-hour confidential telephone line through which any citizen can report improper actions by officials is noted, the intimidation and harassment of individuals, particularly those, including human rights defenders, who complain about ill-treatment and torture by public officials (articles 7 and 10 of the Covenant) continues to be of concern. The State party must protect all individuals from harassment and ensure that persons whose rights and freedoms have allegedly been violated have an effective remedy in accordance with article 2, paragraph 3, of the Covenant.

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at para. 80(10).

While the establishment of specialised departments for the investigation of war crimes in the Ministry of the Interior is welcomed, it is of deep concern that many cases involving violations of articles 6 and 7 of the Covenant, committed during the armed conflict, including the 'Storm' and 'Flash' operations, have not yet been adequately investigated, and that only a small number of the persons suspected of involvement in those violations have been brought to trial. Although the declared policy of the present Government to carry out investigations, irrespective of the ethnic identity of those suspected, is appreciated, it is regretted that the Committee was not provided with detailed information on the number of prosecutions brought, the nature of the charges and the outcome of the trials. The State party is under an obligation to investigate fully all cases of alleged violations of articles 6 and 7 and to bring to trial all persons who are suspected of involvement in such violations. Towards this end, the State party should proceed, as a matter of urgency, with the enactment of the draft law on the establishment of specialised trial chambers within the major county courts, specialised investigative departments, and a separate department within the Office of the Public Prosecutor for dealing specifically with the prosecution of war crimes.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at paras. 81(8), 81(12) and 81(16).

### *Paragraph 81(8)*

Note is taken of the delegation's explanations that the death penalty is rarely imposed and even more rarely carried out. Serious concern still remains at the number of offences punishable by the death

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penalty and at the absence of any information on the number of death sentences imposed in the past 10 years and the number of executions carried out during the same period. This situation is particularly disturbing in the light of precise, consistent reports alleging that a large number of death sentences have been passed and executions carried out following unfair trials in which the accused were sentenced although evidence was used that had been obtained through confessions which had been made under torture. The State party is called upon to ensure respect for articles 6, 7 and 14 (3) (g) of the Covenant and the number of offences punishable by the death penalty should be reduced.

### *Paragraph 81(12)*

Deep concern is expressed about constant and duly substantiated allegations of violations of article 7 of the Covenant, to which the delegation did not respond, which are attributed to law enforcement personnel. The many allegations that torture is practised in Syrian prisons, particularly Tadmur military prison are noted with concern. The State party should ensure that complaints of torture and other abuses committed by agents of the State are considered by an independent body. The State party should institute a system of independent oversight of all detention facilities with a view to preventing all acts of torture and other abuses of power by law enforcement personnel.

### *Paragraph 81(16)*

The procedures of the State Security Court are incompatible with the provisions of article 14, paragraphs 1, 3 and 5. The public nature of proceedings before the State Security Court is not guaranteed. Allegations, to which the delegation did not respond, that the Court has rejected complaints of torture, even in flagrant cases, and that some legal representatives have withdrawn in protest against the failure to respect the rights of the defence are of concern. Moreover, it is noted that the State Security Court's decisions are not subject to appeal. The State party should ensure that the procedures of the State Security Court scrupulously respect the provisions of article 14, paragraphs 1 and 3 of the Covenant and should grant accused persons the right to appeal against the Court's decisions (article 14, paragraph 5 of the Covenant).

- The Netherlands, ICCPR, A/56/40 vol. I (2001) 76 at paras. 82(7), 82(9) and 82(11).

### *Paragraph 82(7)*

While it is acknowledged that the State party's Medical Research (Human Subjects) Act 1999 attempts to find a generally acceptable standard and to establish a permanent control system through the Central Committee for Medical Research Involving Human Subjects and the corresponding local committees accredited by the Central Committee, aspects of this law are considered to be problematic (article 7 of the Covenant). The general criterion whereby proportionality is assessed by balancing the risks of the research to the subject against the probable value of the research is of concern. This rather subjective criterion must be qualified by a limitation beyond which the risks are so great to the individual that no measure of expected benefit can outweigh them. It is also of concern that minors

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and other persons unable to give genuine consent may be subject to medical research under certain circumstances. The State party should reconsider its Medical Research (Human Subjects) Act in light of these concerns in order to ensure that even high potential value of scientific research is not used to justify severe risks to the subjects of research. The State party should further remove minors and other persons unable to give genuine consent from any medical experiments which do not directly benefit these individuals (non-therapeutic medical research).

### *Paragraph 82(9)*

The establishment of a network of advisory centres to deal with child abuse is welcomed, but concern remains at the ongoing high numbers of reported incidents (articles 7 and 24). The State party should continue to develop strategies designed to prevent child abuse, and investigate where it has occurred. It should also standardize the systems and measures employed by its advisory centres to facilitate these ends.

### *Paragraph 82(11)*

The new instructions issued by the Immigration and Naturalization Service aimed at drawing the competent officials' attention to specific aspects of female asylum seekers' statements peculiar to their gender are appreciated. However, it remains of concern that a well-founded fear of genital mutilation or other traditional practices that infringe the physical integrity or health of women (article 7 of the Covenant) do not always result in favourable asylum decisions, for example when genital mutilation, despite a nominal legal prohibition, remains an established practice to which the asylum seeker would be at risk. The State party should make the necessary legal adjustments to ensure that the female persons concerned do enjoy the required protection under article 7 of the Covenant.

- The Netherlands (Aruba), ICCPR, A/56/40 vol. I (2001) 76 at paras. 82(22) and 82(24).

### *Paragraph 82(22)*

The establishment of universal jurisdiction for the crime of torture is appreciated.

### *Paragraph 82(24)*

It is disturbing that an appropriate police complaints authority in Aruba is still not in place, after the State party had admitted that the system established under the Police Complaints Decree did "not function properly in practice" (articles 7 and 26 of the Covenant). The revised Decree should be amended and brought into force.

- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at paras. 85(13)- 85(16), 85(20) and 85(21).

### *Paragraph 85(13)*

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Reports of human rights violations, particularly gross and systemic violations of the right to life, liberty and security of person, are of grave concern. Reports of disappearances in the State party, both the most recent reports and those in the past are of particular concern. The information supplied by the delegation that all such situations are being investigated is not satisfactory. Taking into account the provisions of articles 6, 7 and 9 of the Covenant, the State party should give special priority to investigating and bringing to justice the perpetrators of human rights violations, including police and military personnel. The perpetrators of such acts must be tried and punished; mere separation from service or dismissal from the army is not sufficient. All necessary measures should be taken to prevent the occurrence of such acts.

### *Paragraph 85(14)*

The many reports of, and the State party's failure to provide answers about, extrajudicial executions allegedly carried out by former members of the military and paramilitary forces and attributed to ordinary criminals are of deep concern. These acts are all contrary to article 6 of the Covenant. The State party should conduct investigations to identify those responsible for extrajudicial executions and bring them to justice. It should also take the necessary measures to prevent the occurrence of such violations of articles 6 and 7 of the Covenant.

### *Paragraph 85(15)*

The information received on the traffic in children separated from their parents, a situation which has still not yet been clarified, is also of concern. The State party should conduct investigations to identify those responsible for the traffic in children and bring them to justice. It should take the necessary measures to prevent the occurrence of such violations of articles 6, 7 and 24 of the Covenant.

### *Paragraph 85(16)*

Despite the efforts made by the authorities through workshops to raise public awareness, the reports of lynchings of members of the judiciary in breach of articles 6 and 7 of the Covenant and the apparent delay in the State party's reaction to such incidents are of deep concern. The State party has the obligation to ensure the full protection of all authorities, especially their security during the exercise of their judicial functions.

### *Paragraph 85(20)*

The wide jurisdiction of the military courts to hear all cases involving the trial of military personnel and their powers to decide cases that belong to the ordinary courts contribute to the impunity enjoyed by such personnel and prevent their punishment for serious human rights violations. The State party should amend the law to limit the jurisdiction of the military courts to the trial of military personnel who are accused of crimes of an exclusively military nature (articles 6, 7, 9 and 14 of the Covenant).

### *Paragraph 85(21)*

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It is of concern that members of various sectors of society, particularly members of the judiciary, lawyers, human rights activists and trade unionists, are being intimidated, threatened with death and even killed; the lawful exercise of their functions is thus being seriously hampered (articles 6, 7 and 9). It is regretted that effective measures to prevent the repetition of such acts have still not been taken. All necessary preventive and protective measures should be taken to ensure that the members of various sectors of society, particularly members of the judiciary, lawyers, human rights activists and trade unionists, can carry out their functions without intimidation of any kind.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at paras. 86(15) and 86(16).

### *Paragraph 86(15)*

Deep concern is expressed about consistent and substantial allegations of violations of article 7 of the Covenant by law enforcement personnel. The information given by the delegation about the small number of complaints of ill-treatment in custody or detention (6 complaints between 1998 and 2000) is difficult to accept as a reflection of the actual situation, in the light of the material available to the Committee, which suggests that the number of instances of ill-treatment and torture is significantly higher. The State party should ensure that all instances of ill-treatment and of torture and other abuses by agents of the State are promptly considered and investigated by an independent body. A system of independent oversight of all places of detention and custody should be instituted with a view to preventing any act of abuse of power by law enforcement personnel.

### *Paragraph 86(16)*

The Committee is concerned about the many allegations of cruel, inhuman and degrading treatment and conditions and of inadequate medical care in reform institutions, prisons and prison camps, which appear to be in violation of articles 7 and 10 of the Covenant and of the United Nations Standard Minimum Rules for the Treatment of Prisoners. The State party should take steps to improve conditions in the above facilities and all other facilities of detention. All persons deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person, as required by article 10 of the Covenant. Sufficient food and appropriate and timely medical care must be available to all detainees. The State party should allow for independent internal and international inspection of prisons, reform institutions, and other places of detention or imprisonment.

## **ICESCR**

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1998/22 (1997) 56 at para. 311.

The State party should take appropriate measures to eliminate corporal punishment in those schools

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in which the practice is still permitted, i.e. privately financed schools.

- Cyprus, ICESCR, E/1999/22 (1998) 50 at para. 288.

The allegations of inhuman or degrading treatment of mentally ill patients in some health institutions are alarming. Such a situation constitutes a serious violation of the State party's obligations under articles 2 and 12.

### **CEDAW**

- India, CEDAW, A/55/38 part I (2000) 7 at paras. 71 and 72.

#### *Paragraph 71*

That women are exposed to the risk of high levels of violence, rape, sexual harassment, humiliation and torture in areas where there are armed insurrections is of concern.

#### *Paragraph 72*

A review of prevention of terrorism legislation and the Armed Forces Special Provisions Act, in consultation with the Human Rights Commission of India, the National Commission of Women and civil society, is recommended so that special powers given to the security forces do not prevent the investigation and prosecution of acts of violence against women in conflict areas and during detention and arrest.

- Democratic Republic of the Congo, CEDAW, A/55/38 part I (2000) 21 at paras. 217 and 218.

#### *Paragraph 217*

Grave concern is expressed over reports of women who were raped, assaulted or severely tortured during the war.

#### *Paragraph 218*

The Government should adopt specific and structural measures, including legislation to protect women from such acts and provide to women victims of violence psychosocial support and socio-economic integration measures. Further, the Government should introduce awareness-raising measures to emphasize the importance of maintaining human rights standards in times of war.

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### **CAT**

- Chile, CAT, A/46/46 (1991) 44 at para. 262.

The concepts of civil and criminal liability are very different, and in the absence of a criminal conviction, the State might still be held liable to compensate a victim of torture for the acts committed. Also, in accordance with article 6 of the Convention, a person accused of an act of torture abroad should be detained in order to give other states time to submit a request for extradition.

- Cameroon, CAT, A/47/44 (1992) 47 at para. 283.

Specific areas causing concern in respect of the implementation of the Convention include the duration of police custody permissible by law and the need to provide persons in police custody with further guarantees of protection against abuse of power or ill-treatment; the need to guarantee the same rights to a person in administrative detention as to a person who has been deprived of his freedom according to judicial proceedings; the need to improve the provisions of training and information to civilian or military law enforcement personnel, public officials, policemen and prison staff and to improve the independence of the judiciary and the supervision of conditions of detention in prisons; and the need to investigate alleged cases of torture or ill-treatment.

- Norway, CAT, A/48/44 (1993) 13 at para. 87.

Including a definition of torture in domestic law and explicitly characterizing torture as a crime would make it possible to solve problems relating to universal jurisdiction. Another solution, equally acceptable, would be to make the Convention part of domestic law.

- Argentina, CAT, A/48/44 (1993) 17 at para. 114.

It is hoped that the State party will redouble its efforts to take all legislative, judicial, administrative and other measures which would be sufficiently effective to halt and prevent the practice of torture and all cruel, inhuman or degrading treatment or punishment and, where necessary, to punish the perpetrators of such acts.

- Mexico, CAT, A/48/44 (1993) 36 at para. 228.

It is of deep concern that an extremely large number of acts of torture of all kinds were perpetrated



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within the State party, despite the existence of a legal and administrative act designed to prevent and punish them. In that respect, the number of torturers that have been punished is small in comparison to the number of complaints.

- Panama, CAT, A/48/44 (1993) 52 at para. 339.

The defence of superior orders in the perpetration of an act of torture does not comply with article 2, paragraph 3, of the Convention.

*See also:*

- Israel, CAT, A/49/44 (1994) 24 at para. 167.
  
- China, CAT, A/48/44 (1993) 62 at paras. 427 and 428.

*Paragraph 427*

Arrested or detained persons should have more extensive guarantees immediately following their arrest and should have prompt and regular access to their family, lawyer and doctor. In order to guarantee the protection of detainees during interrogation, separation between the authorities responsible for detention, on the one hand, and investigation, on the other, should be provided for. The conduct of interrogations should be monitored in the framework of administrative and other forms of detention. In that regard, legislation could be considered that would enable detainees to lodge complaints and allow plaintiffs and witnesses to be protected against any ensuing ill-treatment or intimidation.

*Paragraph 428*

Criminal proceedings should be systematically initiated against persons accused of acts of torture. Those proceedings should be conducted independent of any disciplinary measures taken. Procedures should be introduced to guarantee that the medical examinations of persons detained or arrested are carried out by qualified and independent medical doctors immediately following arrest and at regular intervals thereafter, particularly before release. Training for law enforcement personnel, members of the armed forces and medical doctors should concern, in particular, limitations on the use of instruments, equipment and weapons by the security forces.

- Spain, CAT, A/48/44 (1993) 68 at para. 456.

All offences specified in article 1 of the Convention need to be punished with equal vigour. General

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application of the procedural standards relating to the holding of persons incommunicado and to the choice of a trustworthy counsel is desirable.

- Paraguay, CAT, A/49/44 (1994) 11 at paras. 57, 59 and 61.

### *Paragraph 57*

The fact that the practice of torture continues within the police and that victims of this practice are said to be not only adults, but also minors, are matters of concern.

### *Paragraph 59*

The continued lack of legal mechanisms to make clearer the prohibition of torture, to halt extended or incommunicado detention and, in general, to bring domestic law fully into line with the Convention is of concern. The absence, in practice, of a swift and firm reaction on the part of the courts to allegations of ill-treatment and torture is also of concern.

### *Paragraph 61*

A State party could have a more complete mechanism for the eradication of torture if it recognized the competence of the Committee under articles 21 and 22 of the Convention.

- Poland, CAT, A/49/44 (1994) 12 at paras. 71 and 72.

### *Paragraph 71*

Reforms of criminal legislation and criminal procedure are overdue and incomplete. The Committee is concerned that the legislation contains no definition of torture, the Public Prosecutor has more powers than the courts and there are no special provisions for compensating victims of torture.

### *Paragraph 72*

The following is recommended:

- (a) The necessary steps should be taken to have the new draft Penal Code and Code of Criminal Procedure adopted, thus solving the specific problems brought about by torture;
- (b) Adequate redress and compensation for victims of torture should be ensured and guaranteed; and
- (c) A specific training programme on torture for civilian and military personnel, lawyers and the medical profession should be formulated.

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- Egypt, CAT, A/49/44 (1994) 14 at paras. 87, 89 and 90.

### *Paragraph 87*

Shortcomings in suitable preventive measures to combat torture, including the length and conditions of police custody and administrative detention and the slow pace of trials of persons responsible for acts of torture or ill-treatment, are of concern.

### *Paragraph 89*

The measures taken for the purpose of combatting terrorism must never result in non-compliance with the Convention or in any case justify torture. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political stability, an order from an superior officer or a public authority or any other public emergency, may be invoked as a justification of torture.

### *Paragraph 90*

The State party should provide for all forms of torture in its penal legislation, fully incorporating all elements of the definition contained in article 1 of the Convention.

### *See also:*

- Ecuador, CAT, A/49/44 (1994) 16 at para. 104.
- Monaco, CAT, A/50/44 (1995) 13 at para. 78.
- Morocco, CAT, A/50/44 (1995) 17 at para. 110.

- Ecuador, CAT, A/49/44 (1994) 16 at para. 105.

The State party is encouraged to implement the legislative reforms undertaken to place the criminal justice system (from the investigation of offences to the serving of sentences) under the direct supervision of independent members of the judiciary and ensure that they can quickly investigate reported or suspected cases of torture or ill-treatment.

- Portugal, CAT, A/49/44 (1994) 17 at paras. 113 and 116.

### *Paragraph 113*

It is noted with regret that:

(a) Ill-treatment and, occasionally, acts qualified as torture continue in police stations and other places of detention throughout the country; and

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(b) Investigations into such allegations are often embarked upon rather late and last too long and offenders are not always brought to court. That situation, together with the lightness of the sentences imposed, creates an impression that the culprits act with relative impunity - an impression highly prejudicial to the implementation of the provisions of the Convention.

### *Paragraph 116*

The State party should establish machinery for the systematic review of interrogation rules, instructions, methods and practices, particularly at police stations, as stipulated in article 11 of the Convention, and ensure that such machinery is sufficiently effective, as required by article 2, to give full effect to the commitments assumed and to implement the provisions of the Convention. The State party should extend the application of the Convention to Macau, in accordance with article 2, paragraph 1, of the Convention.

### *See also:*

- Egypt, CAT, A/49/44 (1994) 14 at para. 92.
  
  
- Cyprus, CAT, A/49/44 (1994) 19 at para. 127.

When complaints committees are set up to examine questions of police brutality that may contravene the Convention against Torture, a great effort should be made to ensure that their composition cannot be criticized on the basis of real or perceived partiality. Also, it is sometimes very difficult for small, homogeneous States to change institutional attitudes and practices without creating the risk of a strong reaction. Very often, it is useful to utilize an external agency for this catalytic role. Quite obviously, not only do the police need to be disciplined and prosecuted for any unlawful conduct, but a real attempt must be made to properly internalize their attitudes towards the human rights values that they must respect in their everyday activities.

- Switzerland, CAT, A/49/44 (1994) 20 at para. 133.

The system of holding persons incommunicado during pre-trial detention is of concern, as is the problem of solitary confinement of prisoners for long periods, which may constitute inhuman treatment.

- Nepal, CAT, A/49/44 (1994) 22 at para. 146.

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The State party is encouraged to enact legislation incorporating the definition of torture as contained in the Convention as soon as possible, together with ancillary compensation legislation.

- Greece, CAT, A/49/44 (1994) 23 at para. 155.

Concern is expressed at the practice of severe ill-treatment which seems to be an ongoing problem occurring in some police stations.

- Israel, CAT, A/49/44 (1994) 24 at paras. 166, 168 and 170.

### *Paragraph 166*

The clear failure to implement the definition of torture as contained in article 1 of the Convention is regretted.

### *Paragraph 168*

"Moderate physical pressure" as a lawful mode of interrogation, is completely unacceptable, creating conditions leading to the risk of torture or cruel, or inhuman or degrading treatment or punishment. Retaining the crucial standards of interrogation in secret is a further condition leading inevitably to some cases of ill-treatment contrary to the Convention against Torture.

### *Paragraph 170*

The following is recommended:

- (a) All the provisions of the Convention against Torture should be incorporated by statute into the domestic law;
- (b) Interrogation procedures should be published in full so that they are both transparent and seen to be consistent with the standards of the Convention;
- (c) A vigorous programme of education and re-education of the General Security Service, the Israel Defence Forces, police and medical profession should be undertaken to acquaint them with their obligations under the Convention;
- (d) An immediate end should be put to current interrogation practices that are in breach of obligations under the Convention; and
- (e) All victims of such practices should be granted access to appropriate rehabilitation and

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compensation measures.

*See also:*

- Mauritius, CAT, A/50/44 (1995) 20 at para. 141.
  
- Chile, CAT, A/50/44 (1995) 10 at paras. 59 and 60.

*Paragraph 59*

Legislation such as the rules of the criminal prosecution system and the subjection of civilians to military jurisdiction, are not helpful as far as the prevention of torture is concerned.

*Paragraph 60*

In a spirit of collaboration, the following measures should be adopted:

An in-depth review of procedure, especially as regards police powers of detention and the right of the detainee to free access to and communication with family members and legal advisers and a physician whom he trusts; and the advisability of explicitly abolishing those rules such as automatic obedience, which are not compatible with the Convention;

The security forces should be made subordinate to the civil authorities responsible for public safety and all vestiges of the legislation enacted by the military dictatorship should be abandoned; and

A special provision for the offence of torture, as described in article 1 of the Convention, should be made, and it should be punishable by a penalty appropriate to its seriousness.

- Libyan Arab Jamahiriya, CAT, A/50/44 (1995) 16 at para. 102.

The fight against torture should be continued by sending clear messages and instructions to that effect to police and providing educational programmes to them and ensuring that those who commit the offence of torture are prosecuted in accordance with the law.

- Morocco, CAT, A/50/44 (1995) 17 at paras. 109 and 112.

*Paragraph 109*

Allegations concerning torture and ill treatment, said to be practised in various places of detention, particularly in police stations, are of concern. Shortcomings relating to the effectiveness of the

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preventive measures taken to combat torture, particularly the half-heartedness displayed in pursuing inquiries and bringing the authors of acts of torture before the courts, whose independence must be preserved, are of concern. This situation creates the impression that such offences can be committed with relative impunity, an impunity prejudicial to the application of the provisions of the Convention.

### *Paragraph 112*

The State party should instigate and press forward with serious inquiries into the actions of police officials for the purpose of establishing whether or not acts of torture have been committed and, if the results of these investigations are positive, bring the authors before the courts. At the same time, it should draw up and pass on to the police clear and precise instructions prohibiting all acts of torture or ill treatment.

### *See also:*

- Mauritius, CAT, A/50/44 (1995) 20 at para. 144.
  
- The Netherlands, CAT, A/50/44 (1995) 18 at para. 129.

The Netherlands Antilles should take strong measures to bring an end to the ill treatment which reportedly occurs in police stations, ensure that such allegations are speedily and properly investigated and ensure that those who may be found guilty of acts of ill treatment are prosecuted.

### *See also:*

- Morocco, CAT, A/50/44 (1995) 17 at para. 114.
  
- Mauritius, CAT, A/50/44 (1995) 20 at para. 139.

Inadequacies in the adoption of suitable measures for the purpose of officially combating torture, particularly the timidity shown in conducting inquiries and promptly bringing the perpetrators of such acts before the courts, are of concern.

- Italy, CAT, A/50/44 (1995) 21 at paras. 155 and 157.

### *Paragraph 155*

The penalties imposed on the members of the forces of law and order are not commensurate with the seriousness of the reported acts of torture and, in some cases, deaths, of detainees.

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### *Paragraph 157*

The State party should:

Better guarantee the right of a victim of torture to be compensated by the State and to provide some programme of rehabilitation for him;

Monitor effective compliance with safeguards during preliminary custody, especially access to a doctor and legal counsel;

Make sure that complaints of ill treatment and torture are promptly and effectively investigated and, where appropriate, impose an appropriate and effective penalty on the persons responsible; and

Establish more training programmes for law-enforcement and medical personnel.

- Jordan, CAT, A/50/44 (1995) 23 at paras. 166, 167, 169, 170, 174 and 177-179.

### *Paragraph 166*

The definition of the act of torture, as specified by article 1 of the Convention, is not incorporated into the State party's legislation and this is of concern. Current criminal law does not cover all cases of torture and ill treatment, as provided for in the Convention.

### *Paragraph 167*

The fact that a number of allegations of torture have been made since the State party acceded to the Convention is of deep concern. Such allegations appear to be rarely subjected to independent and partial investigations. Furthermore, the fact that political detainees were sentenced to death or imprisonment in trials before the State Security Court on the basis of confessions allegedly extracted after torture is of concern.

### *Paragraph 169*

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

### *Paragraph 170*

Allegations that individuals have been expelled to countries where there are substantial grounds for believing that they would be in danger of being subjected to torture are of concern.

### *Paragraph 174*

The State party should strengthen measures to protect the rights of detainees, especially their access



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to judges, lawyers and doctors of their choice. It should also promptly investigate allegations of torture and ill treatment and ensure that appropriate penalties are applied whenever such offences are committed; prevent the commission of such acts through efforts to ensure the stricter observance of regulations relating to the treatment of detainees and offenders; and reduce the length of preventive detention, taking into account its principle of presumption of innocence and the complexity of investigation.

### *Paragraph 177*

The State party should review its policy relating to corporal punishment.

### *Paragraph 178*

Procedures which would effectively ensure that no one is expelled to a country where there are substantial grounds for believing that he would be in danger of being subjected to torture should be followed.

### *Paragraph 179*

It is expected that educational programmes will be started as a matter of urgency for law enforcement and medical personnel, focussing on the obligations laid down in the Convention and on how evidence of torture may be recognized. In the case of medical personnel, such educational programmes should include methods for the rehabilitation of victims of torture.

- Denmark, CAT, A/51/44 (1996) 9 at paras. 38, 40 and 41.

### *Paragraph 38*

Allegations concerning one case of apparent torture, and some cases of ill-treatment, and the alleged use of leglocks by police forces, as well as solitary confinement applied in some places of detention, are of concern.

### *Paragraph 40*

The State party should enact a law specifically on the crime of torture in conformity with article 1 of the Convention, so that all the elements of the definition of that offence contained in the said article are fully covered.

### *Paragraph 41*

Strong measures should be taken to bring an end to ill-treatment, which was reported in some police stations, to ensure that allegations in this regard are speedily and properly investigated, and that those who may be found guilty of acts of ill-treatment are prosecuted.

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- Guatemala, CAT, A/51/44 (1996) 10 at para. 55.

The *de facto* impunity for perpetrators of torture and the weakness shown by the judicial, administrative and police authorities in enforcing the law are matters of deep concern.

- United Kingdom of Great Britain and Northern Ireland, CAT, A/51/44 (1996) 12 at paras. 63-65.

### *Paragraph 63*

In Hong Kong, the warehousing of Vietnamese boat people in large detention centres may bring the Government into conflict with article 16 of the Convention.

### *Paragraph 64*

The following are of concern:

The practice of vigorous interrogation of detainees under the emergency powers, which may sometimes breach the Convention;

The rate of suicide in prisons and places of detention;

The practice of the army in Northern Ireland of dispersing, with plastic bullets, what have been described by non-governmental organizations as peaceful demonstrations;

The failure to provide for counsel to be present during interrogation in Northern Ireland for terrorist-related offences; and

The allegations of discrimination in the treatment of black citizens in the United Kingdom by police and immigration authorities.

### *Paragraph 65*

The following are recommended:

Abolishing detention centres in Northern Ireland and repealing the emergency legislation;

Reviewing of practices related to deportation or *refoulement* where such practices may conflict with the State party's obligations under article 3 of the Convention;

Re-educating and retraining police officers, particularly investigating police officers, in Northern Ireland as a further step in the peace process;

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Training immigration officers on how to manage violent prisoners with a minimum at risk of harm to all those involved;

Extending the taping of interrogations to all cases and not merely those that do not involve terrorist-related activities and, in any event, to permit lawyers to be present at interrogations in all cases;

Policies favouring private policing should be reviewed with a view to properly regulating that activity;

Corporal punishment should be reconsidered with a view to determining if it should be abolished in those dependencies that still retain it.

- Colombia, CAT, A/51/44 (1996) 15 at paras. 72, 76, 79 and 80.

### *Paragraph 72*

The almost total lack of penalties for persons responsible for torture constitutes an obstacle to the implementation of the Convention.

### *Paragraph 76*

The light penalties for the offence of torture in the Code of Military Justice do not seem to be acceptable, nor does the extension of military jurisdiction to deal with ordinary crime by means of the inadmissible expansion of the concept of active service and the enactment of provisions which seriously limit the effectiveness of means for protecting rights, such as *habeas corpus*.

### *Paragraph 79*

The practice of torture should be ended forthwith and to this end it is suggested that the State party should act with great firmness to restore the State's monopoly over the use of force, disbanding all armed civilian or paramilitary groups, and ensure that swift and impartial investigations into allegations of torture are conducted immediately and that informers and witnesses are protected.

### *Paragraph 80*

The situation of impunity must be terminated by adopting the necessary legislative and administrative amendments to ensure that military courts judge only violations of military regulations, punishing torture by means of penalties commensurate with its seriousness and dispelling any doubt as to the responsibility of anyone who obeys an illegal order.

- Armenia, CAT, A/51/44 (1996) 17 at paras. 91, 96 and 97.

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### *Paragraph 91*

Concern is expressed at the fact that the State party has not considered it appropriate to introduce a specific definition of the crime of torture in its penal legislation.

### *Paragraph 96*

A definition of torture in conformity with the definition in article 1 of the Convention should be inserted into domestic legislation as a separate type of crime.

### *Paragraph 97*

Orders received from a superior implying the perpetration of an act of torture are illegal and should be sanctioned under criminal law. In addition, they cannot be considered by the person receiving such orders as justification for having committed torture. This should be clearly incorporated into domestic law.

### *See also:*

- Finland, CAT, A/51/44 (1996) 21 at para. 128.
- France, CAT, A/53/44 (1998) 15 at para. 144.
- The Former Yugoslav Republic of Macedonia, CAT, A/54/44 (1999) 14 at para. 112.
  
- Senegal, CAT, A/51/44 (1996) 19 at paras. 112, 114 and 115.

### *Paragraph 112*

The fact that the State party invokes a discrepancy between international and internal law to justify granting impunity for acts of torture on the basis of the amnesty laws is of concern.

### *Paragraph 114*

The State party should consider introducing explicitly in national legislation the following provisions:

The definition of torture set forth in article 1 of the Convention and the classification of torture as a general offence which would, *inter alia*, permit the State party to exercise universal jurisdiction as provided in articles 5 *et seq.* of the Convention;

A blanket prohibition of any act of torture, with the stipulation that no exceptional circumstance may be invoked to justify torture;

An express provision stipulating that an order from a superior officer or from a public authority may not be invoked to justify torture;

Provisions explicitly prohibiting evidence from being obtained by torture and prohibiting any

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statement shown to have been extracted in this way from being used as evidence in any proceedings.

### *Paragraph 115*

All crimes referred to in article 4, paragraph 1, of the Convention should automatically be made the subject of a rigorous and prompt investigation by the competent judicial authorities and by the Government Attorney.

- Finland, CAT, A/51/44 (1996) 21 at paras. 129, 132 and 137.

### *Paragraph 129*

A provision specifically prohibiting the use of statements obtained under torture in judicial proceedings could constitute a strong preventive measure against acts of torture.

### *Paragraph 132*

The State party should incorporate into its legislation the definition of torture as a specific crime committed by a public official or other person in an official capacity in accordance with article 1 of the Convention.

### *Paragraph 137*

A special provision should be incorporated into the State party's criminal procedure, concerning the exclusion from judicial proceedings of evidence which has been established to have been obtained, directly or indirectly, as a result of torture, as provided for by article 15 of the Convention.

- China, CAT, A/51/44 (1996) 22 at paras. 144 and 150.

### *Paragraph 144*

The following are of concern:

Claims that the special environment that exists in Tibet continues to create conditions that result in alleged maltreatment and even death of persons held in police custody and prisons;

The fact that some methods of capital punishment may be in breach of article 16 of the Convention; and

The important number of deaths apparently arising out of police custody.

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### *Paragraph 150*

The following are recommended:

A comprehensive system should be established to review, investigate and effectively deal with complaints of maltreatment by those in custody of every sort. If the Procuratorate is the body that carries out the investigations, it should be given the necessary jurisdiction to carry out its functions, even over the objections of the organ that it is investigating;

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

Conditions in prisons should be brought into conformity with article 16 of the Convention;

Access to legal counsel should be granted to all those detained, arrested or imprisoned as a matter of right and at the earliest stage of the process. Access to the family and to a medical doctor should also be accommodated;

A Rehabilitation Centre for Torture Victims should be established in Beijing or in other large cities in the country;

The State party should continue to train law enforcement personnel, procurators, judges and medical doctors to become professionals of the highest standing;

An independent judiciary, as defined in international instruments, is important for ensuring the objectives of the Convention against Torture. The autonomy/independence of the judiciary should be ensured.

- Croatia, CAT, A/51/44 (1996) 25 at paras. 160 and 162.

### *Paragraph 160*

Information on serious breaches of the Convention indicating that in the wave of the events of 1995 and its aftermath, serious acts of torture were perpetrated by Croatian officials, particularly upon the Serb minority, is of concern.

### *Paragraph 162*

The following is recommended:

Croatia should ensure that all allegations of torture or cruel, inhuman or degrading treatment or punishment arising out of the events of 1995 and its aftermath, are rigorously investigated by an

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impartial, independent commission;

A vigorous programme of education of police, as well as prison, medical, prosecution and judicial personnel should be undertaken to ensure that they understand their obligations pursuant to the relationship between the domestic law and the international human rights regime;

Croatia should continue to cooperate with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 to ensure that alleged war criminals within its jurisdiction are brought to justice pursuant to the Dayton peace accord;

Individual claims of violations of the constitutional rights of defendants in pre-trial detention should be justiciable by an effective judicial authority;

Police and judicial authorities should pay special attention to the implementation of the existing legal guarantees against torture of a constitutional and procedural nature.

- Russian Federation, CAT, A/52/44 (1997) 9 at paras. 42 and 43.

### *Paragraph 42*

The following are of concern:

Presidential Decrees which allow the detention of suspects incommunicado for up to 9 days in one case and 30 days in the other cases, leave the door open to the abuse of the rights of detainees;

Widespread allegations of torture and ill-treatment of suspects and persons in custody with a view to securing confessions, general allegations of ill-treatment of detainees and the absence of effective machinery to address such complaints promptly;

Young soldiers being brutalized by older soldiers without the authorities taking appropriate remedial measures;

The failure to establish effective machinery for the prompt examination of prisoners' complaints about ill-treatment and conditions in prisons;

The slow rate of harmonizing domestic legislation with the Constitution leaves a gap between the legal order respecting human rights established under the Constitution and the application of the law;

Overcrowding in prisons, made all the worse by the poor and insanitary conditions prevailing in them;

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Lack of appropriate measures to give comprehensive effect to the provisions of article 3 of the Convention and to ensure its applicability in all relevant circumstances, including in relation to extradition;

Absence of extraterritorial jurisdiction makes difficult or impossible the implementation of article 5, paragraph 1 (b), of the Convention; and

Reported widespread abuses of human rights in the conflict in Chechnya, including acts of torture, and the apparent failure to check such abuses and address them speedily and effectively.

### *Paragraph 43*

The following measures are recommended:

The State party should make torture as defined in the Convention a distinct crime, with sufficiently severe punishment to reflect the gravity of the offence;

The process of training the personnel, including the medical personnel, of all agencies involved in law enforcement and the detention of prisoners as to their powers and duties under the law should be expedited;

Programmes should be adopted to inform detainees and the public of their rights and the means available under the law to protect them;

Effective machinery should be established to monitor the conditions under which investigations of crimes are conducted, the conditions under which persons are held in custody and conditions in prisons;

An appropriate process should be established for the prompt investigation of complaints of suspects, detainees and prisoners and the prosecution of the offenders;

Conditions in prisons should be radically improved, including space, facilities, food and sanitation;

The State party should abolish acts, rules and regulations allowing remand in custody for longer than 48 hours without judicial authorization, and those limiting access to legal assistance. Unimpeded access to counsel should be safeguarded at all times;

An independent committee should be established to investigate allegations of torture and inhuman and degrading treatment committed by the military forces of the Russian Federation and Chechen separatists, with a view to bringing to justice those against whom there is evidence tending to establish their involvement or complicity in such acts.



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- Republic of Korea, CAT, A/52/44 (1997) 12 at paras. 56, 58 and 65.

### *Paragraph 56*

That many political suspects go through the "torture procedure" during interrogation in an attempt to extract confessions from them is of deep concern. The sleep deprivation practiced on suspects, which may in some cases constitute torture and which seems to be routinely used to extract confessions, is unacceptable.

### *Paragraph 58*

The continued failure to promptly and impartially investigate and prosecute those responsible for acts of torture and ill-treatment is of concern. It is unacceptable that only formal complaints of the victims of torture are investigated.

### *Paragraph 65*

An independent governmental body should take over the inspection of detention centres and places of imprisonment. Public prosecutors, who are also part of law enforcement personnel, which may itself be subject to investigation of the crime of torture, should not be the main inspection figures.

### *See also:*

- Guatemala, CAT, A/51/44 (1996) 10 at para. 54.

- Algeria, CAT, A/52/44 (1997) 14 at paras. 79 and 80.

### *Paragraph 79*

Reports concerning extrajudicial executions, disappearances and a rising incidence of torture are of concern.

### *Paragraph 80*

While aware of the difficulties posed by terrorist groups, torture is not warranted in any exceptional circumstances. In that light, it is recommended that:

The definition of torture should be revised to bring it into closer conformity with article 1 of the Convention;

Consideration should be given to making the judiciary more independent and ensuring the effective

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exercise of its internationally recognized powers;

Steps should be taken to ensure that only a judicial authority can take decisions restricting individual liberty;

In accordance with its obligations under various conventions, particularly article 12 of the Convention, the State party should ensure that an objective inquiry is made promptly whenever there are reasonable grounds to believe that an act of torture has been committed in any territory under its jurisdiction and that the results of such inquiries are published.

- Uruguay, CAT, A/52/44 (1997) 16 at paras. 91, 93 and 94.

### *Paragraph 91*

The persistence of provisions concerning obedience to a superior, which are incompatible with article 2, paragraph 3 of the Convention, is of concern.

### *Paragraph 93*

Legal reforms must be introduced to bring internal legislation into conformity with the provisions of the Convention, in particular as regards the definition of torture as a specific offence and the elimination of obedience to a superior as justification for exculpation from the crime of torture.

### *Paragraph 94*

Measures taken to prevent the torture of persons deprived of their liberty and to strengthen protection in prisons should be improved.

- Poland, CAT, A/52/44 (1997) 18 at paras. 99, 101, 107, 109 and 110.

### *Paragraph 99*

Shortcomings in the legislation in force to combat torture are of concern. Domestic legislation does not contain any definition of torture, as required in articles 1 and 4 of the Convention. Moreover, there is no way to determine whether, under existing legislation, obedience to a legitimate hierarchical authority may be invoked in justification of an act of torture.

### *Paragraph 101*

The existence of provisions authorizing the use of physical force, particularly against minors is deplored.

### *Paragraph 107*

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Objective inquiries should be initiated and pursued with due dispatch into the activities of the security forces in order to determine the veracity of allegations of acts of torture, and where the findings are positive, offenders should be brought before the courts.

### *Paragraph 109*

Statements obtained directly or indirectly under torture should not be admissible as evidence in the courts. Legal provisions permitting the use of physical force, for whatever reason, should be abolished as soon as possible.

### *Paragraph 110*

The likelihood of commission of acts of torture or of other cruel, inhuman or degrading treatment would be limited if suspects had easy access to a lawyer, doctor or family member during the initial 48 hours of police custody.

- Georgia, CAT, A/52/44 (1997) 20 at paras. 120 and 121.

### *Paragraph 120*

The following are of concern:

The current failure to make proper provision for compensation, restitution and rehabilitation of victims of torture;

The grossly inadequate conditions in places of detention, including prisons;

The alarming number of deaths in prison;

Internal exile, which may amount to a breach of article 16 of the Convention;

The unwillingness of many law enforcement officers to respect, in the exercise of their duties, the rights of persons under investigation and prisoners;

The existing procedures for the investigation of complaints of torture and ill-treatment, which are not demonstrably impartial; and

The absence of proper guidelines for the taking of statements from persons under arrest and of firm criteria for their evidential evaluation.

### *Paragraph 121*

The following measures are recommended:

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The Presidential Decree on urgent measures for the halting of torture and other cruel, inhuman or degrading treatment should be implemented as soon as possible;

Incommunicado detention should be abolished;

Rigorous educational programmes for the police, prison officers, doctors, prosecutors and judges should be implemented to ensure that each group understands its constitutional role and its obligations under the Convention;

Resources should be made available to improve prison conditions as a matter of urgency, including the provision of appropriate medical facilities;

A monitoring body with comprehensively defined authority should be established to keep under constant review the conditions in which investigations are conducted and persons are held in custody;

The powers of the Committee for Human Rights and Relations Between the Peoples or another such body, as appropriate, should be strengthened to ensure the prompt examination of complaints of torture and other cruel, inhuman or degrading treatment of detainees and prisoners and the prosecution without fail of those responsible for such acts; and

The prison service should be removed from the control of the Ministry of the Interior and transferred to the Ministry of Justice or an independent ministry of corrections.

- Ukraine, CAT, A/52/44 (1997) 23 at paras. 131, 132, 134-138,141,143,144 and 150.

### *Paragraph 131*

The large number of reports of cases of torture and violence committed by officials during preliminary investigations, causing suffering, bodily injury and, in a number of cases, death are of concern.

### *Paragraph 132*

The State party lacks a sufficiently effective system of independent bodies capable of successfully investigating complaints and allegations of the use of torture, preventing and putting an end to torture and ensuring that the perpetrators of such acts are held fully responsible for them.

### *Paragraph 134*

Although the State party's Constitution prohibits the use of torture, its criminal legislation fails to define torture as a distinct and dangerous crime. In the circumstances, this provision of the Constitution is merely declaratory. Provisions on criminal responsibility for the imposition of inhuman

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and degrading punishment are also lacking.

### *Paragraph 135*

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

### *Paragraph 136*

The systematic mistreatment and beating of recruits in the armed forces constitutes a flagrant violation of the Convention.

### *Paragraph 137*

The conditions prevailing in premises used for holding persons in custody and in prisons may be described as inhuman and degrading, causing suffering and the impairment of health.

### *Paragraph 138*

A major obstacle in efforts to prevent torture is the difficulty experienced by accused persons in gaining access to a lawyer of their choice in cases where the lawyer's participation in the proceedings depends on his presentation of an authorization to act as defence counsel; this problem can be solved only by the Ministry of Justice which issues such authorizations.

### *Paragraph 141*

The fact that article 29 of the Constitution of Ukraine has been suspended for five years, especially since the provisions of that article are of great importance in ensuring the observance of the law and preventing the use of torture, is of concern.

### *Paragraph 143*

Priority should be given to the adoption of a new criminal code, defining torture as a punishable offence, and a new code of criminal procedure, guaranteeing the right of an accused person to counsel at all stages of criminal proceedings. Effective and practical supervision by the courts of preliminary confinement to preclude any use of torture at this stage of detention or arrest or at subsequent stages of criminal proceedings is recommended.

### *Paragraph 144*

Extending supervision by the judicial and civil authorities over the work of the law enforcement agencies and establishing a system of independent institutions for the rapid and effective follow-up of complaints regarding the use of torture and other degrading treatment or punishment is

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recommended.

### *Paragraph 150*

The moratorium on the application of the death penalty should be given permanent effect.

### *See also:*

- Sri Lanka, CAT, A/53/44 (1998) 24 at para. 251.
  
- Mexico, CAT, A/52/44 (1997) 26 at paras. 163 and 165-167.

### *Paragraph 163*

The ineffectiveness of efforts to put an end to the practice of torture is the result, *inter alia*, of the continuing impunity of torturers and the fact that the authorities responsible for the administration of justice continue to admit confessions and statements made under torture as evidence during trials, despite legal provisions explicitly declaring them inadmissible.

### *Paragraph 165*

In practice, the failure by the authority responsible for criminal investigation to investigate reports of torture promptly and impartially, as stipulated in articles 12 and 13 of the Convention, results in the denial of the right of victims to take legal action to claim compensation for the violation of their rights.

### *Paragraph 166*

To discourage the practice of torture, it is necessary to implement effective procedures for monitoring compliance with the duties and prohibitions of public officials and bodies responsible for the administration of justice and law enforcement, particularly the Office of the Attorney-General and its subsidiary departments and the judiciary, in order to ensure the full implementation of the many existing judicial remedies for the elimination of torture and the criminal and administrative punishment of the persons responsible.

### *Paragraph 167*

The following measures are considered necessary:

The public human rights commissions should be given the necessary jurisdiction to prosecute cases of serious human rights violations, including complaints of torture;

Training and dissemination programmes intended particularly for law enforcement officials and health professionals should be strengthened and should include issues relating to the prohibition of torture;

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and

Procedures to inform detainees of their rights should be developed. Detainees should be immediately and directly informed of their rights by public officials at the time of arrest and those rights should be posted in all detention centres, prosecutors' offices and courthouses.

- Denmark, CAT, A/52/44 (1997) 28 at paras. 181 and 186.

### *Paragraph 181*

The institution of solitary confinement, particularly as a preventive measure during pre-trial detention, but also as a disciplinary measure, for example, in cases of repeated refusal to work, is of concern.

### *Paragraph 186*

The use of solitary confinement should be abolished excluding exceptional circumstances, particularly during pre-trial detention, or at least it should be strictly and specifically regulated by law (maximum duration, etc.) and judicial supervision should be introduced.

- Paraguay, CAT, A/52/44 (1997) 30 at paras. 195, 202, 203, 205, 206, 208 and 209.

### *Paragraph 195*

Guarantees applicable to arrest and detention provide a legal framework that can and should help to prevent torture.

### *Paragraph 202*

The existence of a legal arrest warrant does not, under any circumstances, justify torture. The fact that many arrests are made without a previously issued warrant from the competent authority, particularly in cases other than those involving persons caught in *flagrante delicto*, facilitates the practice of torture and cruel, inhuman or degrading treatment as a result of the clandestine circumstances in which it takes place. This is also the case because the victims may remain at the disposal of their captors for longer than the 24-hour period within which detainees must, according to the Constitution, be brought before the competent judge.

### *Paragraph 203*

That the report submitted by the State party makes no mention of the existence of programmes for the compensation and physical and mental rehabilitation of victims, leading to the belief that there are no such programmes, is of concern. As to the right to fair and adequate compensation, concern arises because the State party has only subsidiary responsibility for the actions of its officials, which makes victims responsible for laying claim to the assets of their torturers in order to exercise that right; the

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State may be required to assume responsibility only if such assets are non-existent, insufficient or cannot be found.

### *Paragraph 205*

The fact that domestic law contains no provisions on the universal prosecution of torture or on judicial cooperation for that purpose is of concern.

### *Paragraph 206*

The provisions on torture should be separated from the new Penal Code, and all matters related to torture and other cruel, inhuman or degrading treatment or punishment should be included in a special act containing the provisions necessary to give effect to the provisions of the Convention. In particular:

Torture should be defined in terms consistent with article 1 of the Convention and, since Paraguay is also a party to the Inter-American Convention to Prevent and Punish Torture, the definition should include a specific statement that: "Torture shall also be understood to be the use of methods upon a person intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish", as established by article 2 of that Convention, which the Committee has taken into consideration in accordance with article 1, paragraph 2, of the United Nations Convention against Torture;

The practice of torture should in itself be punishable by law, independent of any effects on or consequences for the victim and without prejudice to any increase in penalties, in view of the seriousness of such effects or consequences; and

Provisions to facilitate the prosecution of the use of torture at the international level should be included in accordance with the Convention, which includes recognition of international law and the international protection of human rights among the guiding principles of Paraguay's international relations.

### *Paragraph 208*

Rules and instructions on the matters referred to in article 11 of the Convention should be issued, and systematic procedures for the supervision and monitoring of compliance therewith should be established and maintained in order to eliminate the practice of torture and other cruel, inhuman or degrading treatment or punishment.

### *Paragraph 209*

Physical conditions in prisons should be improved and the conditions of prisoners in detention should be made compatible with human dignity.



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- Sweden, CAT, A/52/44 (1997) 33 at para. 223.

The State party should proceed to incorporate the provisions of the Convention against Torture into its domestic law, as it has already done with regard to the European Convention on Human Rights.

- Namibia, CAT, A/52/44 (1997) 35 at paras. 234, 235, 241, 243, 247, 250 and 251.

### *Paragraph 234*

It must be emphasized that no exceptional circumstances can ever provide a justification for failure to comply with certain terms of the Convention against Torture.

### *Paragraph 235*

The fact that the State party has not integrated, as required by articles 2 (1) and 4 (1) of the Convention, the specific definition of the crime of torture into its penal legislation in terms legally consistent with the definition contained in article 1 of the Convention is of concern. In the absence of a strict legal definition of torture and other offences and of a precise description of appropriate and corresponding punishment for torture and other offences, it is impossible for the courts to adhere to the principle of legality (*nullum crimen, nulla poena sine lege previa*) and to article 4 of the Convention.

### *Paragraph 241*

The State party should enact a law defining the crime of torture in terms of article 1 of the Convention and should legally integrate this definition into the substantive and procedural criminal law system, taking especially into account: (a) the need to define torture as a specific offence committed by or at the instigation of or with the consent of a public official (*delictum proprium*) with the special intent to extract a confession or other information, to arbitrarily punish, to intimidate, to coerce or to discriminate; (b) the need to legislate for complicity in torture and attempts to commit torture as equally punishable; (c) the need to exclude the legal applicability of all justification in cases of torture; (d) the need to exclude procedurally all evidence obtained by torture in criminal and all other proceedings except in proceedings against the perpetrator of torture himself; and (e) the need to legislate for and enforce prompt and impartial investigation into any substantiated allegations of torture.

### *Paragraph 243*

The training of members of the Police Department, the National Defence Force, the Prisons Service, other law enforcement personnel and medical officers should include education regarding the prohibition of torture and other cruel, inhuman and degrading treatment, with special emphasis on the definition of torture as contained in article 1 of the Convention and also emphasizing the criminal

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liability of those who commit acts of torture.

### *Paragraph 247*

The cases of disappearance of former members of the South West Africa People's Organization (SWAPO) should be promptly and impartially investigated. In all situations where reasonable grounds exist to believe that those disappearances amounted either to torture or to other forms of cruel, inhuman or degrading treatment, the dependants of the deceased victims should, according to article 14 of the Convention, be afforded fair and adequate compensation.

### *Paragraph 250*

The prompt abolition of corporal punishment insofar as it is legally still possible is recommended.

### *Paragraph 251*

Victims of torture should be given standing to institute, apart from civil action for damages, criminal procedures against the perpetrators of torture.

- Israel, CAT, A/52/44 (1997) 38 at paras. 257-260.

### *Paragraph 257*

The methods of interrogation, on the basis of accounts given by interrogatees, appear to be applied systematically, and were neither confirmed nor denied. They are therefore assumed to be accurate. Those methods include: (1) restraining in very painful conditions, (2) hooding under special conditions, (3) sounding of loud music for prolonged periods, (4) sleep deprivation for prolonged periods, (5) threats, including death threats, (6) violent shaking, and (7) using cold air to chill. These are breaches of article 16 and also constitute torture as defined in article 1 of the Convention. This conclusion is particularly evident where such methods of interrogation are used in combination, which appears to be the standard case.

### *Paragraph 258*

A State party is precluded from raising exceptional circumstances as justification for acts prohibited by article 1 of the Convention, such as the terrible dilemma that Israel confronts in dealing with terrorist threats to its security.

### *Paragraph 259*

The effect of the Hamdan decision by the Israeli Supreme Court dissolving the interim injunction and allowing some of the interrogation practices referred to above to continue and to legitimize them for domestic purposes is of concern.

### *Paragraph 260*

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The following measures are recommended:

Interrogations applying any sort of methods that are in conflict with the provisions of articles 1 and 16 of the Convention should cease immediately;

The provisions of the Convention should be incorporated by legislation into law, particularly the definition of torture contained in article 1 of the Convention, as is currently under consideration by the expert committee of the Ministerial Committee for Legislation; and

Interrogation procedures pursuant to the "Landau rules" in any event should be published in full.

- Cyprus, CAT, A/53/44 (1998) 8 at para. 50.

The fact that a victim is unable or unwilling to give evidence should not be a reason for non-prosecution where the case can otherwise be made.

- Argentina, CAT, A/53/44 (1998) 8 at paras. 58, 60, 61, 63, 64 and 68.

### *Paragraph 58*

Implementation of the following provisions of the new Code of Criminal Procedure should help prevent the practice of torture: prohibiting the police from taking a statement from a person who has been charged; strictly limiting cases in which the police may detain persons without a court order and obliging them to bring the detainee before the competent judicial authority immediately or within six hours; limiting the length of incommunicado detention; and stipulating that the fact that an individual is being held incommunicado may under no circumstances prevent him from communicating with his defence counsel before making any statement or before any proceeding requiring his personal participation.

### *Paragraph 60*

The severe penalties for acts of torture laid down in article 144 of the Penal Code, particularly torture resulting in the death of the victim, although formally satisfying the requirements of article 4 of the Convention, are weakened in their practical application by courts which prefer to try the offenders on less serious charges attracting lighter penalties, thus reducing the deterrent effect.

### *Paragraph 61*

The protracted nature of judicial inquiries into complaints of torture nullifies the exemplary and deterrent effect which prosecution of the perpetrators of such crimes should have. Slow procedures intensify the suffering of relatives, inducing them to give up their legitimate demands for the

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punishment of the guilty parties and delaying the moral and material redress to which they are entitled.

### *Paragraph 63*

A lack of effective and prompt police cooperation in judicial inquiries into complaints of torture and ill-treatment and impediments to these inquiries demonstrate a relatively systematic *modus operandi*, rather than occasional failure to cooperate faithfully with the inquiries.

### *Paragraph 64*

Police brutality which results in the death of or serious injury to the victim, while not constituting torture as defined in article 1 of the Convention, represents cruel, inhuman and degrading treatment which the State party is obligated to punish under article 16 of the Convention.

### *Paragraph 68*

A reasonable time limit should be set for preliminary investigations. Undue prolongation of this pre-trial stage represents a form of cruel treatment of the individual concerned, even if he is not deprived of his freedom. The law should specify a reasonable time limit for pre-trial detention and for the completion of criminal proceedings.

- Portugal, CAT, A/53/44 (1998) 10 at paras. 76, 78 and 79.

### *Paragraph 76*

The recent cases of ill-treatment, torture and, in some instances, suspicious death attributed to members of the forces of law and order, especially the police, as well as the apparent lack of any appropriate response by the competent authorities are of serious concern.

### *Paragraph 78*

The greatest possible attention should be devoted to the handling of files concerning accusations of violence made against public officials, with a view to initiating investigations in appropriate cases and applying appropriate penalties.

### *Paragraph 79*

An obligation exists on the part of the competent authorities to initiate investigations of their own accord in all cases where there are reasonable grounds for believing that an act of torture has been committed on any territory within their jurisdiction.

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- Switzerland, CAT, A/53/44 (1998) 11 at paras. 89, 90, 94, 98 and 100.

### *Paragraph 89*

The lack of an appropriate and specific definition of torture makes the full application of the Convention difficult.

### *Paragraph 90*

Frequent allegations of ill-treatment in the course of arrests or in police custody, particularly in respect of foreign nationals, are of concern. Independent machinery for recording and following up complaints of ill-treatment does not seem to exist in all the cantons. The lack of an appropriate response on the part of the competent authorities is noted with serious concern.

### *Paragraph 94*

Machinery should be set up in all cantons to receive complaints against members of the police regarding ill-treatment during arrest, questioning and police custody.

### *Paragraph 98*

The greatest possible attention should be devoted to the handling of files and investigations concerning accusations of violence made against public officials and, in proven cases, the application of appropriate penalties.

### *Paragraph 100*

The authorities should investigate the allegations of medical treatment carried out on persons who are being expelled without their consent.

- Cuba, CAT, A/53/44 (1998) 12 at paras. 105, 110, 111, 116 and 118.

### *Paragraph 105*

Cuba acknowledges the universal jurisdiction for the trial of crimes against humanity, to which category, many would argue, torture belongs.

### *Paragraph 110*

The failure to establish a specific crime of torture as required by the Convention leaves a gap in the application of its provisions that is not filled by any of the existing offences directed against violations of the bodily integrity or the dignity of the individual.

### *Paragraph 111*

The information disclosed in some reports suggests that serious violations of the Convention occur

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with regard to arrest, detention, prosecution, access to counsel and imprisonment of individuals, especially persons referred to in the reports as dissidents, and that serious violations occur in prisons affecting the safety, dignity and health of prisoners.

### *Paragraph 116*

Complaints made that certain categories of persons referred to as dissidents are targeted and their fundamental rights violated without having satisfactory means of redress are of concern.

### *Paragraph 118*

The following actions are recommended:

Revision of the rules to the organization of the judicial system in accordance with international instruments on the subject, namely the United Nations guidelines on the independence of the judiciary;

The criminalization of torture, as defined in the Convention, by the creation of a specific crime or crimes giving effect to every aspect of it;

The establishment of a transparent permanent procedure for receiving complaints about torture and other inhuman and degrading treatment or punishment, the prompt examination of such complaints and bringing to justice those responsible;

The incorporation into the law of the right of the suspect or detainee to silence at all stages of investigation;

The establishment of a system of recurrent review of prisons as required by article 11 of the Convention with a view to improving conditions in prisons;

The setting up of a comprehensive programme, which should be kept under constant review, for educating and training law enforcement personnel, medical personnel, public officials and all those involved in the interrogation, custody or treatment of any person arrested, detained or imprisoned; and

The establishment of a compensation fund for the compensation of the victims of torture and other prohibited treatment.

- Spain, CAT, A/53/44 (1998) 14 at paras. 127, 128, 131-134 and 136.

### *Paragraph 127*

Judicial proceedings instituted following complaints of acts of torture, at both the pre-trial and trial

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stages, are often of a duration which is completely incompatible with the promptness required by article 13 of the Convention, including some cases in which sentences were pronounced up to 15 years after the events in question.

### *Paragraph 128*

Sentences imposed on public officials accused of acts of torture which involve token penalties seem to indicate a degree of indulgence which deprives the criminal penalty of the deterrent and exemplary effect that it should have and is also an obstacle to the genuine elimination of the practice of torture. The increased severity of the penalties will help to remedy this shortcoming.

### *Paragraph 131*

Prolonged detention incommunicado, when the detainee cannot receive the assistance of a lawyer of his choice, seems to facilitate the practice of torture.

### *Paragraph 132*

Although judges do not accept as incriminating evidence statements that have been obtained under duress or torture, that they nevertheless accept those same statements as incriminating other co-defendants is of concern.

### *Paragraph 133*

The competent authorities should take the necessary measures to eliminate problems related to the excessive length of investigations into complaints of torture and ill-treatment.

### *Paragraph 134*

State officials responsible for conducting criminal proceedings should use all available procedural means for the effective and exemplary punishment of acts of torture, rather than leave that responsibility to be discharged solely through the actions of those who have suffered direct and personal injury.

### *Paragraph 136*

The State party should institute procedures for the automatic investigation of any case of torture or ill-treatment brought to the State party's attention by any means whatsoever, even when the victims do not lodge complaints through the prescribed legal channels.

- France, CAT, A/53/44 (1998) 15 at paras. 143 and 147.

### *Paragraph 143*

The following are of concern:

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The procedure for taking evidence under which the courts are not explicitly prohibited from admitting evidence obtained under torture, which contravenes article 15 of the Convention; and

Sporadic allegations of violence committed by members of the police and *gendarmerie* at the time of arrest of suspects and during questioning.

### *Paragraph 147*

The State party should consider abrogating the current system of "appropriateness of prosecution" in order to remove all doubt regarding the obligation of the competent authorities to institute systematically and on their own initiative impartial inquiries in all cases where there are reasonable grounds for believing that an act of torture has been committed anywhere within the territory under their jurisdiction.

- Norway, CAT, A/53/44 (1998) 16 at para. 156.

Unless there are exceptional circumstances, *inter alia* when the safety of persons or property is involved, the use of solitary confinement should be abolished, particularly during pre-trial detention, or at least it should be strictly and specifically regulated by law and judicial supervision should be strengthened.

- Guatemala, CAT, A/53/44 (1998) 17 at paras. 164 and 165.

### *Paragraph 164*

The following are matters of concern:

The persistence of impunity for crimes, particularly grave human rights violations;

Problems resulting from incompetence in the Public Prosecutor's Office, the Judiciary and the Police, which are responsible for investigating reports, identifying and arresting the perpetrators and bringing them to trial;

The increase in the number of reports of cruel, inhuman or degrading treatment by State agents; and

The faulty definition of the crime of torture.

### *Paragraph 165*

The following actions are recommended:



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Intensification of efforts to elucidate past grave violations and to ensure that such situations do not recur. Articles 11 and 12 of the Convention require the State to proceed *ex officio* to a prompt and impartial investigation of any report of torture;

Putting into operation the Service for the Protection of Persons involved in Proceedings and Persons connected with the Administration of Justice; and

Harmonization of the Penal Code with the definition of torture contained in article 1 of the Convention.

- New Zealand, CAT, A/53/44 (1998) 19 at paras. 175 and 177.

### *Paragraph 175*

Allegations that prisoners were molested by the guards with fists and legs, that they were not provided with medical treatment and were deprived of food and proper places of detention are of concern. Although these facts cannot be considered as instances of torture, they amount to cruel and degrading treatment.

### *Paragraph 177*

It is important to strengthen the supervision of prisons to prevent the misuse and abuse of power by prison personnel.

- Germany, CAT, A/53/44 (1998) 19 at paras. 185, 190, 192, 193 and 196.

### *Paragraph 185*

The precise definition of torture, as contained in article 1 of the Convention, has not been integrated into the State party's legal order and this is of concern. Aggravated forms of torture with specific intent (*dolus specialis*) and incidents causing severe mental pain or suffering are not covered by current legislative provisions, as required by the Convention. Likewise, it is not absolutely clear that all exculpation by justification and superior order is categorically excluded as required by the Convention.

### *Paragraph 190*

The State party should adopt the precise definition of the crime of torture foreseen by the Convention and integrate it into the internal legal order (art. 4, para. 2, of the Convention).

### *Paragraph 192*

In order to ensure that alleged ill-treatment by police officers is open to the fullest scrutiny, criminal

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procedures should be open to subsidiary prosecution by the victims of ill-treatment and adherence procedures (Adhäsionsprozesse) and civil procedures for damages should be made widely applicable and possible. Adequate legal assistance by competent legal counsel should also be made available. Furthermore, the length of the investigation of complaints of police ill-treatment should be shortened.

### *Paragraph 193*

All evidence obtained directly or indirectly by torture should be strictly prevented from reaching the cognizance of deciding judges in all judicial proceedings.

### *Paragraph 196*

Police officers should be required to wear a form of personal identification that would make them identifiable to those who allege ill-treatment.

- Peru, CAT, A/53/44 (1998) 21 at paras. 202 and 205.

### *Paragraph 202*

The following are of concern:

The frequent and numerous allegations of torture;

The maintenance of the competence of military courts to try civilians;

Laws passed between 1995 and 1998, which seem designed as a challenge to the independence of the judiciary; and

The maintenance of emergency legislation hardly conducive to respect for human rights in general and the elimination of torture in particular.

### *Paragraph 205*

Pursuant to articles 6, 11, 12, 13 and 14 of the Convention, measures to ensure that victims of torture or other cruel, inhuman or degrading treatment, and their legal successors, receive redress, compensation and rehabilitation in all circumstances should be considered.

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

- Peru, CAT, A/55/44 (2000) 13 at paras. 59 and 60.
  
- Panama, CAT, A/53/44 (1998) 22 at para. 213.

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Panamanian legislation contains appropriate safeguards for the effective protection of human rights and especially the prevention of torture, in particular the maximum period of 24 hours, subject to no exception, within which a detainee must be brought before the competent judicial authority, and the prohibition against holding anybody incommunicado.

- Kuwait, CAT, A/53/44 (1998) 23 at para. 230.

The State party should consider enacting in its Criminal Code a defined crime of torture or, if the Convention applies by incorporation, an independent crime of torture.

- Israel, CAT, A/53/44 (1998) 23 at paras. 237, 238, 240 and 241.

### *Paragraph 237*

A state of insecurity cannot justify torture.

### *Paragraph 238*

The following are of concern:

Use of the "Landau rules" of interrogation permitting physical pressure by the General Security Services, based upon judicial adoption of the justification of necessity, contrary to article 2, paragraph 2, of the Convention; and

Administrative detention in the occupied territories for inordinately lengthy periods and for reasons that do not bear on the risk posed by releasing some detainees.

### *Paragraph 240*

Interrogations applying the methods of hooding, shackling in painful positions, sleep deprivation and shaking of detainees are in conflict with articles 1, 2 and 16 of the Convention and should cease immediately. The provisions of the Convention should be incorporated by legislation into law, particularly the definition of torture contained in article 1 of the Convention. Interrogation procedures pursuant to the "Landau rules" should in any event be published in full.

### *Paragraph 241*

The practice of administrative detention in the occupied territories should be reviewed in order to ensure its conformity with article 16.

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- Sri Lanka, CAT, A/53/44 (1998) 24 at para. 255.

It is recommended that the State party:

Ensure that all allegations of torture - past, present and future - are promptly, independently and effectively investigated and the recommendations implemented without any delay;

While continuing to remedy through compensation the consequences of torture, give due importance to prompt criminal prosecutions and disciplinary proceedings against culprits; and

Strengthen the Human Rights Commission and other mechanisms dealing with torture prevention and investigation and provide them with all means necessary to ensure their impartiality and effectiveness.

- Yugoslavia, CAT, A/54/44 (1999) 6 at paras. 42, 44-48 and 51.

### *Paragraph 42*

Unrest and ethnic friction is taken into account. However, it is emphasized that no exceptional circumstances can ever provide a justification for failure to comply with the terms of the Convention.

### *Paragraph 44*

The incorporation of the definition contained in article 1 of the Convention, in compliance with article 4, paragraph 1 and article 2, paragraph 1, requires specific as well as systematic legislative treatment in the area of substantive criminal law. Article 4 of the Convention demands that each State party shall ensure that all acts of torture are offences under its own criminal law. A verbatim incorporation of this definition would permit the current Yugoslav Criminal Code formula defining the "extortion of confession" to be made more precise, clear and effective.

### *Paragraph 45*

One of the essential means in preventing torture is the existence, in procedural legislation, of detailed provisions on the inadmissibility of unlawfully obtained confessions and other tainted evidence. The absence of detailed procedural norms pertaining to the exclusion of tainted evidence can diminish the practical applicability of these general principles. Evidence obtained in violation of article 1 of the Convention should never be permitted to reach the cognizance of the judges deciding the case, in any legal procedure.

### *Paragraph 46*

Regulating pre-trial detention is of specific significance for the prevention of torture. Two issues are crucial in this respect, namely incommunicado detention and access to counsel.

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### *Paragraph 47*

The acts of torture perpetrated by the police, and especially by its special units, include beatings by fists and wooden or metallic clubs, mainly on the head, the kidney area and on the soles of the feet, resulting in mutilations and even death in some cases. There were instances of use of electro-shock. The fact that confessions obtained by torture were admitted as evidence by the courts even in cases where the use of torture had been confirmed by pre-trial medical examinations is of concern.

### *Paragraph 48*

*De jure* impunity of the perpetrators of torture and other cruel, inhuman or degrading treatment or punishment results, *inter alia*, from amnesties, suspended sentences and reinstatement of discharged officers that have been granted by the authorities. Insufficient reaction to complaints results in the *de facto* impunity of the perpetrators of acts of torture.

### *Paragraph 51*

In order to diminish the recurrence of torture, the State party should legally and practically ensure the independence of the judiciary, the unrestricted access to counsel immediately after arrest, the shortening of the length of police custody to a maximum period of 48 hours, the shortening of the period of pre-trial post-indictment detention, strict exclusion of all evidence directly or indirectly derived from torture, effective civil redress and a vigorous criminal prosecution in all cases of torture and breaches of article 16 of the Convention.

- Croatia, CAT, A/54/44 (1999) 8 at paras. 64 and 69.

### *Paragraph 64*

The State party has incorporated the crime of torture and acts constituting other inhuman, cruel or degrading treatment or punishment into its internal legislation in terms which are in keeping with the provisions of articles 4 and 16 of the Convention, since it makes these offences punishable by appropriate penalties which take into account their grave nature.

### *Paragraph 69*

The State party should make all necessary efforts to ensure that the competent authorities immediately conduct an impartial, appropriate and full investigation whenever they have to deal with allegations of serious violations made in a credible manner by non-governmental organizations.

- United Kingdom of Great Britain and Northern Ireland, CAT, A/54/44 (1999) 9 at paras. 76 and 77.

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### *Paragraph 76*

The following are matters of concern:

The number of deaths in police custody and the apparent failure of the State party to provide an effective investigative mechanism to deal with allegations of police and prison authorities' abuse, as required by article 12 of the Convention, and to report publicly in a timely manner;

The use of prisons as places in which to house refugee claimants;

The rules of evidence in Northern Ireland that admit confessions of suspected terrorists upon a lower test than in ordinary cases and in any event permits the admission of derivative evidence even if the confession is excluded; and

The continued use of plastic bullet rounds as a means of riot control.

### *Paragraph 77*

The use of plastic bullet rounds as a means of riot control should be abolished.

In the case of Senator Pinochet of Chile, the matter should be referred to the office of the public prosecutor, with a view to examining the feasibility of, and if appropriate, initiating criminal proceedings in England, in the event that the decision is made not to extradite him. This would satisfy the State party's obligations under articles 4 to 7 of the Convention and article 27 of the Vienna Convention on the Law of Treaties of 1969.

- Hungary, CAT A/54/44 (1999) 10 at paras. 81 and 84.

### *Paragraph 81*

Provisions that make torture punishable only if the soldier or policeman committing the act was aware that by so doing he or she was committing a criminal offence is of concern. Reports that an inordinately high proportion of detainees are roughly handled or treated cruelly before, during and after interrogation by the police and that a disproportionate number of detainees and/or prisoners serving their sentence are Roma are also of concern.

### *Paragraph 84*

All necessary measures, including, in particular, prompt access to defence counsel assistance soon after arrest, and improved training, should be taken to prevent and eradicate torture and all acts of cruel, inhuman or degrading treatment or punishment.

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- Tunisia, CAT, A/54/44 (1999) 11 at paras. 95-97, 99, 100 and 102.

### *Paragraph 95*

The definition of torture is not in conformity with article 1 of the Convention, as the Criminal Code uses the term "violence" instead of torture and penalizes the use of violence only when it is used without just cause.

### *Paragraph 96*

Concern is expressed over the wide gap that exists between law and practice with regard to the protection of human rights. The reported widespread practice of torture and other cruel and degrading treatment perpetrated by security forces and the police, which, in certain cases, resulted in death in custody is disturbing. Furthermore, concern is expressed over the pressure and intimidation used by officials to prevent the victims from lodging complaints.

### *Paragraph 97*

The fact that many of the regulations existing in Tunisia for arrested persons are not adhered to in practice are of concern, in particular:

The limitation of pre-trial detention to the 10-day maximum prescribed by law;

The immediate notification of family members;

The requirement of medical examination with regard to allegations of torture; and

The carrying out of autopsies in all cases of death in custody.

### *Paragraph 99*

Reports that dozens of women were subjected to violence and sexual abuses or sexual threats in order to put pressure on or to punish their imprisoned or exiled relatives are disturbing.

### *Paragraph 100*

By constantly denying allegations, the authorities are in fact granting those responsible for torture immunity from punishment, thus encouraging the continuation of these abhorrent practices.

### *Paragraph 102*

The State party is called upon to put an end to the degrading practice of torture and in particular to take up the following measures:

To ensure strict enforcement of the provisions of law and procedures of arrest and police custody;

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To strictly enforce the procedures of registration, including notification of families of persons taken into custody;

To ensure the right of victims of torture to lodge a complaint without the fear of being subjected to any kind of reprisal, harassment, harsh treatment or prosecution, even if the outcome of the investigation into the claim does not prove his or her allegation, and to seek and obtain redress if these allegations are proven correct; and

To ensure that medical examinations are automatically provided following allegations of abuse and an autopsy is performed following any death in custody; that the findings of all investigations concerning cases of torture are made public; and this information should include details of any offences committed, the names of the offenders, the dates, places and circumstances of the incidents and the punishment received by those who were found guilty.

- The Former Yugoslav Republic of Macedonia, CAT A/54/44 (1999) 14 at paras. 114 and 115.

### *Paragraph 114*

The definition of torture as contained in the Convention and torture as a defined crime should be incorporated into the Criminal Code with appropriate penalties attached to it.

### *Paragraph 115*

The State party is urged to investigate complaints of maltreatment by government officials, particularly those that relate to ethnic minorities. The investigations should be prompt and impartial and those officials who may be responsible for such maltreatment should be prosecuted.

### *See also:*

- Switzerland, CAT, A/53/44 (1998) 11 at para. 97.
  
- Mauritius, CAT, A/54/44 (1999) 15 at para. 123.

The State party should:

Clarify through appropriate legislation that superior orders can never be invoked as a justification of an act of torture;

Introduce legislation that would give effect to all the provisions of article 3 of the Convention by



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preventing extradition, return and expulsion of persons in danger of being subjected to torture;

Take legislative measures to establish universal jurisdiction as required by article 5 of the Convention;

Ensure that all instances of torture, especially those resulting in death, are promptly and effectively investigated by an independent body and that the perpetrators be brought immediately to justice.

- Venezuela, CAT, A/54/44 (1999) 16 at paras. 133, 137, 140, 142 and 150.

### *Paragraph 133*

The Act intended to combat violence against women and the family has entered into force; and the Organizational Act for the Protection of Children and Adolescents has been approved, and will enter into force next year. Both laws are intended to improve the protection of two particularly vulnerable sectors who frequently fall victim to discrimination, abuse or cruel, inhuman or degrading treatment.

### *Paragraph 137*

Concern is expressed over the failure of the competent organs of the State to fulfil their duty to investigate complaints and punish those responsible, who generally enjoy impunity. This encourages repetition of the conduct in question.

### *Paragraph 140*

The overcrowding in prisons, where capacity is exceeded by over 50 per cent, the lack of segregation of the prison population, the fact that almost two thirds of prisoners are awaiting trial and the endemic violence rampant in Venezuelan jails mean that prisoners are permanently subjected to forms of inhuman or degrading treatment.

### *Paragraph 142*

Legislation must provide for the hearing and trial in the ordinary courts of any charge of torture, regardless of the body of which the accused is a member.

### *Paragraph 150*

A governmental programme aimed at the physical, psychological and social rehabilitation of torture victims should be established.

- Bulgaria, CAT, A/54/44 (1999) 18 at paras. 157, 159 and 161.

### *Paragraph 157*

The lack of a definition of torture in domestic law, in accordance with article 1 of the Convention,

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and the failure to ensure that all acts of torture are offences under criminal law are of concern.

### *Paragraph 159*

The lack of measures to ensure universal jurisdiction with regard to acts of torture in all circumstances is of concern.

### *Paragraph 161*

Concern is expressed over the deficiencies relating to a prompt and impartial system of investigation of alleged cases of torture and the failure to bring those allegations before a judge or other appropriate judicial authority.

- Italy, CAT, A/54/44 (1999) 19 at paras. 167 and 169.

### *Paragraph 167*

Prison systems that are overcrowded and lacking in facilities make the overall conditions of detention not conducive to the efforts of preventing inhuman or degrading treatment or punishment.

### *Paragraph 169*

It is recommended that:

(a) The legislative authorities proceed to incorporate into domestic law the crime of torture as defined in article 1 of the Convention and make provision of an appropriate system of compensation for torture victims; and

(b) All prisoners' correspondence addressed to international procedures of investigation and settlement be excluded from "censor checks" by prison personnel or other authorities.

- Luxembourg, CAT, A/54/44 (1999) 20 at para. 175.

The State party should:

Adopt the legislation defining torture in accordance with article 1 of the Convention, and consider all acts of torture as a specific offence;

Introduce into law the possibility of an effective appeal against the most severe disciplinary measures imposed on detainees and reduce the severity of these measures; and

End, as soon as possible, the practice of placing young offenders, including minors, in the prison for

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adults.

- Libyan Arab Jamahiriya, CAT, A/54/44 (1999) 20 at paras. 181, 182, 188 and 189.

### *Paragraph 181*

The effect of the embargo on the State party causes severe difficulties in its economic and social life. However, such difficulties may not be invoked as justification of breaches of the provisions of the Convention, especially articles 1, 2 and 16.

### *Paragraph 182*

Prolonged incommunicado detention, in spite of the legal provisions regulating it, still seems to create conditions that may lead to violation of the Convention and this is of concern.

### *Paragraph 188*

The State party should send a clear message to all its law-enforcement personnel that torture is not permitted under any circumstances. In addition, those who commit the offence of torture should be subjected to a prompt and impartial investigation and rigorously prosecuted in accordance with the law.

### *Paragraph 189*

Corporal punishment should be abolished by law.

- Morocco, CAT, A/54/44 (1999) 21 at para. 196.

The State party should:

Introduce into its criminal legislation a definition of torture fully consistent with that contained in article 1 of the Convention and classify as crimes all acts liable to be characterized as torture;

Bring the legislation on return, expulsion and extradition into line with the relevant provisions of the Convention; and

Initiate, urgently if such has not already been done, impartial inquiries into the serious allegations of human rights violations and ensure, in recognized cases, that appropriate penalties are imposed on those responsible and that equitable compensation is granted to the victims.

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- Egypt, CAT, A/54/44 (1999) 22 at paras. 206, 209 and 212.

### *Paragraph 206*

A terrorist threat may not be invoked as justification for breaches of the provisions of the Convention, especially articles 1, 2 and 16.

### *Paragraph 209*

Allegations about the treatment of female detainees, by both the police and the State Security Intelligence, which sometimes involves sexual abuse or threat of such abuse in order to obtain information relating to husbands or other family members, are of concern.

### *Paragraph 212*

The State party should take effective steps to protect women from threats of sexual abuse by police and officers of the State Security Intelligence as a means of obtaining information from them.

- Malta, CAT, A/55/44 (2000) 10 at para. 45.

The State party should ensure that victims of torture are not dissuaded from lodging a complaint by any intimidation or threats, including threats of legal measures being taken against them.

- Austria, CAT, A/55/44 (2000) 11 at paras. 49 and 50.

### *Paragraph 49*

The following is of concern:

In spite of the fact that the Convention has the status of law in the State party and is directly enforceable, a definition of torture as provided in article 1 of the Convention is not included in the penal legislation of the State party and, therefore the offence of torture does not appear as punishable by appropriate penalties as required by article 4, paragraph 2 of the Convention.

Potential complaints of abuse committed by police authorities may be discouraged by the provisions enabling the police to accuse a person of defamation who lodges a complaint against them.

### *Paragraph 50*

Adequate penal provisions should be established to make torture as defined in article 1 of the Convention a punishable offence in accordance with article 4, paragraph 2 of the Convention.

Clear instructions should be given to the police by the competent authorities to avoid any incidence

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of ill-treatment by police agents. Such instructions should emphasize that ill-treatment by law enforcement officials shall not be tolerated and shall be promptly investigated and punished in cases of violation, in accordance with the law.

### *See also:*

- Finland, CAT, A/55/44 (2000) 12 at paras. 54 and 55.
- Azerbaijan, CAT, A/55/44 (2000) 16 at paras. 68 and 69.
  
- Finland, CAT, A/55/44 (2000) 12 at paras. 53 and 55.

### *Paragraph 53*

The practice of making all statements of the accused available to the judge who, according to the law, must take into account only the statements made freely, as required by article 15 of the Convention is noted with satisfaction.

### *Paragraph 55*

In order to reinforce the Convention's objectives to ensure the proper investigation of incidents which may amount to a breach of Article 16 of the Convention, the State party should declare illegal and prohibit organizations which promote and incite racial discrimination, as well as the dissemination of ideas based on racial superiority or hatred.

- Peru, CAT, A/55/44 (2000) 13 at paras. 59 and 61.

### *Paragraph 59*

Concern is expressed about the following:

The period of incommunicado pre-trial detention of 15 days for persons suspected of acts of terrorism.

The automatic penalty of at least one year of solitary confinement from the date of trial for anyone convicted of a terrorism offence.

The apparent lack of effective investigation and prosecution of those who are accused of having committed acts of torture.

The use of, in particular, the amnesty laws which preclude prosecution of alleged torturers who must, according to articles 4, 5 and 12 of the Convention, be investigated and prosecuted where

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appropriate.

The special prison regime applicable to convicted terrorists and in particular to convicted terrorist leaders.

The failure of the Attorney General's Office to keep a precise register of persons who claim that they have been tortured.

### *Paragraph 61*

It is recommended that:

The State party should ensure vigorous investigation and, where appropriate, the prosecution of all reported instances of alleged torture and ill-treatment by its authorities, whether civil or military.

The period of pre-trial incommunicado detention should be abolished.

The automatic period of solitary confinement for persons convicted of terrorist offences should be abolished.

Amnesty laws should exclude torture from their reach.

The special regime that applies to convicted terrorists should be reviewed with a view to the gradual abolition of the virtual isolation and other restrictions that are inconsistent with the provisions of article 16 and may in certain cases amount to torture as defined in Article 1 of the Convention.

A similar national registry to that pertaining to detainees should be established for persons claiming to be victims of torture.

- Azerbaijan, CAT, A/55/44 (2000) 16 at paras. 68 and 69.

### *Paragraph 68*

The following is of concern:

The apparent failure to provide prompt, impartial and full investigation into numerous allegations of torture, as well as the failure to prosecute, where appropriate, the alleged perpetrators.

The use of amnesty laws that might extend to the crime of torture.

### *Paragraph 69*

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In view of the numerous allegations of torture and ill-treatment by law enforcement personnel, the State party should take all necessary effective steps to prevent the crime of torture and other acts of cruel, inhuman or degrading treatment or punishment.

In order to ensure that perpetrators of torture do not enjoy impunity, the State party should ensure the investigation and, where appropriate, the prosecution of those accused of having committed the crime of torture, and ensure that amnesty laws exclude torture from their reach.

*See also:*

- Kyrgyzstan, CAT, A/55/44 (2000) 17 at para. 75.
- Georgia, CAT, A/56/44 (2001) 35 at para. 82.
  
- Kyrgyzstan, CAT, A/55/44 (2000) 17 at para. 75.

The State party should amend its domestic penal law to include the crime of torture, consistent with the definition in article 1 of the Convention, and supported by an adequate penalty.

*See also:*

- Belarus, CAT, A/56/44 (2001) 19 at para. 46
- Georgia, CAT, A/56/44 (2001) 35 at para. 82.
- Kazakhstan, CAT, A/56/44 (2001) 52 at para. 129.
  
- Uzbekistan, CAT, A/55/44 (2000) 19 at paras. 78, 80 and 81.

*Paragraph 78*

Several positive aspects have been identified including the large number of investigations carried out following allegations of torture or ill treatment inflicted on citizens by law-enforcement personnel, which proves the existence of an effective system for handling complaints.

*Paragraph 80*

The following is of concern:

The incompleteness of the definition of torture, which leaves unpunished certain aspects of torture as defined in article 1 of the Convention, and, in particular, the impossibility of prosecuting, under existing domestic law, an individual guilty of torture at the instigation of a law-enforcement officer and, moreover, the failure to make an attempt to commit torture an offence.

The particularly large number of complaints of torture or maltreatment and the small number of

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subsequent convictions.

The establishment of a regime of criminal liability applicable to law-enforcement officials (policemen, procurators, judges, etc.) who wrongly prosecute or convict, which could tend to undermine the judiciary or weaken the will to prosecute and punish, is of concern.

The failure to apply the Supreme Court's plenary court decision excluding evidence obtained by torture is of concern. It is noted that in practice, criminal prosecutions in the State party do not seem to respect the principle of the presumption of innocence and have an inquisitorial character incompatible with article 11 of the Convention.

The lack of a formal prohibition of the expulsion, return or extradition of a person to another State where he runs the risk of being subjected to torture, in accordance with article 3 of the Convention is of concern.

### *Paragraph 81*

It is recommended that the State party:

Adopt a definition of torture strictly in conformity with article 1 of the Convention, by applying article 4.

Review the system for handling complaints of torture or ill treatment, so as to minimize the risk of offences going unpunished.

Ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture.

Formally prohibit the expulsion, return or extradition of persons to a State where they would be in danger of being subjected to torture.

### *See also:*

- Kazakhstan, CAT, A/56/44 (2001) 52 at para. 129.
  
- Poland, CAT, A/55/44 (2000) 21 at paras. 86, 88, 89 and 91-95.

### *Paragraph 86*

The introduction in the new Constitution of the norm that stipulates that "no one be subjected to torture or cruel, inhuman or degrading treatment or punishment" is noted. This is an important step



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towards achieving the requirements and recommendations of the Committee, namely that a definition of torture which fully covers all the elements in the definition contained in article 1 of the Convention is incorporated in domestic law.

### *Paragraph 88*

The fact that the new Penal Code does not introduce any substantial change regarding orders of superiors when they are invoked as justification of torture is of concern. According to existing legislation, criminal responsibility of the recipient of an order is based on his awareness of the criminal nature of the command.

### *Paragraph 89*

Concern is expressed that the new Penal Code does not include the "danger of exposure to torture" as one of the grounds for the refusal of extradition as is required by article 3 of the Convention.

### *Paragraph 91*

The persistence in the army of the practice of the "fala", whereby new recruits are subjected to abuse and humiliation is of concern.

### *Paragraph 92*

Although the new Polish Constitution recognizes ratified international conventions to be part of the legal system, there are no provisions for making charges relating to, nor penalties applicable to, the crime of torture. Therefore, it is recommended that the State party introduce such legislative changes as are necessary to identify torture as a specific crime and to enable prosecutions of torture, as defined in the Convention, and the application of appropriate penalties.

### *Paragraph 93*

The Penal Code should be amended to ensure that orders of superiors cannot be invoked, in any circumstances, as justification of torture.

### *Paragraph 94*

The State party should introduce an effective and reliable complaint system that will allow the victims of torture and other forms of cruel, inhuman or degrading treatment or punishment to file complaints.

### *Paragraph 95*

Legislative and administrative measures should be introduced to safeguard against excessive use of force by the police, in particular in connection with the supervision of public meetings and to safeguard against the persistence of abusive measures associated with the practice of so-called "fala" in the army.

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- Portugal, CAT, A/55/44 (2000) 22 at para. 104.

The State party should particularly ensure that criminal investigation and prosecution of public officers are undertaken *as a matter of course* where the evidence reveals that they have committed acts of torture, or cruel or inhuman or degrading treatment and punishment.

- China, CAT, A/55/44 (2000) 24 at paras. 116, 119, 121, 128, 138, 139, 140 and 142.

### *Paragraph 116*

Continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities is of concern.

### *Paragraph 119*

Concern is expressed about the fact that rules and practices of certain procurators limit the prosecution of torture suspects to certain serious cases.

### *Paragraph 121*

The absence of a uniform and effective investigation mechanism to examine allegations of torture is noted with concern.

### *Paragraph 128*

The State party should ensure the prompt, thorough, effective and impartial investigation of all allegations of torture.

### *Paragraph 138*

The reference to "lawful authority, justification or excuse" as a defence for a person charged with torture, as well as the definition of a public official are not in full conformity with article 1 of the Convention.

### *Paragraph 139*

Concern is expressed that there have as yet been no prosecutions under the Crimes (Torture) Ordinance, despite circumstances justifying such prosecutions.

### *Paragraph 140*

Concern is expressed that not all instances of torture and other cruel, inhuman or degrading treatment or punishment are covered by the Crimes (Torture) Ordinance.

### *Paragraph 142*

The necessary steps should be taken to ensure that torture, as defined in article 1 of the Convention,

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is effectively prosecuted and appropriately sanctioned and efforts should be made to prevent other acts of cruel, inhuman or degrading treatment or punishment, in accordance with the provisions of the Convention.

- Paraguay, CAT, A/55/44 (2000) 27 at paras. 149 and 150.

### *Paragraph 149*

The innovations introduced by the new Penal Code are noted with satisfaction, including the extension of its application to the punishment of acts committed abroad against rights which are universally protected under an international treaty; a provision which is in keeping with article 5 of the Convention.

The exclusion of the probative value of any statement which is contrary to procedural guarantees provided for in the Constitution and in international law is noted with satisfaction. This gives national courts binding jurisdiction in accordance with article 15 of the Convention.

### *Paragraph 150*

Reports that the practice of torture and cruel, inhuman or degrading treatment or punishment continues in police stations and in Armed Forces prisons and premises, where soldiers performing compulsory military service are subjected to frequent physical ill-treatment is of concern.

The lack of programmes for redress and the rehabilitation of the physical and mental health of the victims of torture, as required by article 14 of the Convention is of concern. No information was received on any case in which a victim of torture obtained the right to redress.

- El Salvador, CAT, A/55/44 (2000) 28 at paras. 157, 158, 160, 163, 165-167 and 171.

### *Paragraph 157*

The promulgation and effective observance of the new Penal Code and Code of Criminal Procedure, whose provisions include important guarantees for the protection of fundamental human rights, should contribute to better fulfilment of the State's obligations under the Convention.

### *Paragraph 158*

Among those provisions, particular importance is attached to the following:

The imprescriptibility of both penalties and criminal proceedings in the prosecution of crimes against humanity, including torture.

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The attribution of jurisdiction to national courts for the judgement of offences affecting internationally protected property or universally recognized human rights, regardless of by whom and where such offences are committed.

The fact that there is no provision in penal legislation which allows torture to be justified by invoking the order of a superior or public authority. On the contrary, the National Civil Police Organization Act expressly excludes that possibility and, under the general provisions of the Penal Code, both the physical perpetrator of the offence and the person or persons ordering it incur criminal liability.

### *Paragraph 160*

The country's penal legislation does not adequately define the offence of torture in terms consistent with article 1 of the Convention. The type of offence referred to in the Penal Code does not cover all the possible objectives of the offence according to the Convention.

### *Paragraph 163*

There are no legal provisions opposing expulsion, return or extradition when there are substantial grounds for believing that the person concerned would be in danger of being subjected to torture.

### *Paragraph 165*

Cases of extrajudicial executions, whose victims show signs of torture, though very infrequent, would appear to reveal a persistence of the criminal practices employed during the armed conflict superseded by the Peace Agreements.

### *Paragraph 166*

The offence of torture should be defined in terms complying with article 1 of the Convention.

### *Paragraph 167*

The right of torture victims to fair and adequate compensation at the State's expense should be regulated, with the introduction of programmes for as full as possible physical and mental rehabilitation of the victims.

### *Paragraph 171*

The State is urged to adopt measures ensuring that any allegation of suspected torture is promptly and impartially investigated and, if proved, suitably penalized.

### *See also:*

- China, CAT, A/55/44 (2000) 24 at para. 123.
- Paraguay, CAT, A/55/44 (2000) 27 a paras. 150 and 151.
- Slovakia, CAT, A/56/44 (2001) 43 at paras. 104 and 105.

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- United States of America, CAT, A/55/44 (2000) 31 at paras. 179 and 180.

### *Paragraph 179*

Concern is expressed over the reservation lodged to article 16, in violation of the Convention, the effect of which is to limit the application of the Convention.

Alleged cases of sexual assault upon female detainees and prisoners by law enforcement officers and prison personnel are of concern. Female detainees and prisoners are also very often held in humiliating and degrading circumstances.

The use of electro-shock devices and restraint chairs as methods of constraint may violate the provisions of article 16 of the Convention.

### *Paragraph 180*

The State party should enact a federal crime of torture in terms consistent with article 1 of the Convention and withdraw its reservations, interpretations and understandings relating to the Convention.

Electro-shock stun belts and restraint chairs should be abolished as methods of restraining those in custody; their use almost invariably leads to breaches of article 16 of the Convention.

- The Netherlands, CAT, A/55/44 (2000) 33 at para. 188.

Measures should be taken to fully incorporate the Convention into domestic law, including adopting the definition of torture contained in article 1 of the Convention.

- Slovenia, CAT, A/55/44 (2000) 34 at paras. 203, 206, 208 and 210.

### *Paragraph 203*

It is noted that in order to allow for the sanctioning of crimes of torture, special transfer into Slovenia's positive criminal law of the definition of torture contained in article 1 of the Convention is needed. The fact that substantive criminal law does not yet contain a specific *corpus delicti* torture and therefore is not an instrument for the direct incrimination and appropriate punishment of persons guilty of torture is of concern.

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### *Paragraph 206*

The Aliens Act as a general rule precludes the expulsion of an alien to a country where he or she would be in danger of being subjected to torture. However, it is of concern that article 51, paragraph 2, of the Act, which allows for the derogation from the general rule in cases where a person constitutes a threat to public security, does not respect the State party's obligations under article 3 of the Convention.

### *Paragraph 208*

The State party should incorporate the definition of torture in substantive criminal law.

### *Paragraph 210*

The State party should consider amending the legislation which permits the expulsion of an alien to a country where he or she would be in danger of being tortured, i.e. expulsion justified by the individual being a threat to public security, so that it meets the conditions required by article 3 of the Convention.

- Armenia, CAT, A/56/44 (2001) 17 at paras. 37 and 39.

### *Paragraph 37*

The following is of concern:

The fact that the draft Penal Code does not include some aspects of the definition of torture contained in article 1 of the Convention.

The fact that the rights of persons deprived of liberty are not always respected.

The lack of effective compensation for victims of acts of torture committed by government officials in contravention of the provisions of article 14 of the Convention.

The ongoing practice of hazing ("*dedovshchina*") in the military, which has led to abuses and violations of the relevant provisions of the Convention. This practice also has a devastating effect on victims and may sometimes even lead to their suicide.

### *Paragraph 39*

The following is recommended:

Although the State party's legislation contains various provisions on some aspects of torture as defined by the Convention, the State party must, in order genuinely to fulfil its treaty obligations, adopt a definition of torture which is fully in keeping with article 1 and provide for appropriate

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penalties.

The State parties should conduct impartial investigations without delay into allegations of hazing ("*dedovshchina*") in the military and institute proceedings in substantiated cases.

The State party is encouraged to continue education and training activities on the prevention of torture and the protection of individuals from torture and ill-treatment for police and for the staff of prisons, including Ministry of the Interior facilities and military prisons.

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

- Belarus, CAT, A/56/44 (2001) 19 at paras. 45 and 46.

### *Paragraph 45*

The following is of concern:

The numerous continuing allegations of torture and other cruel, inhuman and degrading punishment or treatment, committed by officials of the State party or with their acquiescence, particularly affecting political opponents of the government and peaceful demonstrators, and including disappearances, beatings, and other actions in breach of the Convention.

The pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture reported to the authorities, as well as a failure to prosecute alleged perpetrators, in nonconformity with articles 12 and 13 of the Convention.

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

### *Paragraph 46*

It is recommended that:

Urgent and effective steps be taken to establish a fully independent complaints mechanism, to ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate, of alleged perpetrators.

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The State party consider establishing an independent and impartial governmental and non-governmental national human rights commission with effective powers to, *inter alia*, promote human rights and investigate all complaints of human rights violations, in particular those pertaining to the implementation of the Convention.

- Australia, CAT, A/56/44 (2001) 22 at paras. 52 and 53.

### *Paragraph 52*

Concern is expressed about the following:

The apparent lack of appropriate review mechanisms for ministerial decisions in respect of cases coming under article 3 of the Convention.

Use of instruments of physical restraint that may cause unnecessary pain and humiliation by prison authorities.

Allegations of excessive use of force or degrading treatment by police forces or prison guards.

Allegations of intimidation and adverse consequences faced by inmates who complain about their treatment in prisons.

### *Paragraph 53*

It is recommended that:

The State party consider the desirability of providing a mechanism for independent review of ministerial decisions in respect of cases coming under article 3 of the Convention.

The State party continue its education and information efforts for law enforcement personnel regarding the prohibition against torture, and improve further its efforts in training, especially of police, prison officers and prison medical personnel.

The State party keep under constant review the use of instruments of restraint that may cause unnecessary pain and humiliation, and ensure that their use is appropriately recorded.

The State party ensure that complainants are protected against intimidation and adverse consequences as a result of their complaint.

- Canada, CAT, A/56/44 (2001) 24 at paras. 58 and 59.



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### *Paragraph 58*

Concern is expressed over the following:

Allegations of actions not in conformity with the Convention, including the inappropriate use of pepper spray and force by police authorities to break up demonstrations and restore order, notably with regard to the 1997 APEC demonstrations.

Allegations that female detainees have been treated harshly and improperly by the authorities of the State party, and that many recommendations of the Arbour report remain to be implemented.

Allegations of the use of undue force and involuntary sedation in the removal of rejected asylum-seekers.

The position of the State party in arguments before courts, and in policies and practices that, when a person is considered a serious criminal or security risk, the person can be returned to another state even where there are substantial grounds for believing that the individual would be subjected to torture, an action which would not be in conformity with the absolute character of the provisions of Article 3(1) of the Convention.

The public danger risk assessment, without interview or transparency, is carried out prior to the refugee determination procedure, and, if a person is considered a security risk, this person is not eligible to have his case examined in-depth under the normal refugee determination procedure. In addition, it is noted that at present both the review of security risk and the review of the existence of humanitarian and compassionate grounds are determined by the same governmental body. The alleged lack of independence of decision-makers, as well as the possibility that a person can be removed while an application for humanitarian review is underway, may constitute obstacles to the effectiveness of the remedies to protect the rights in article 3(1) of the Convention.

The lack of adequate measures taken in regards to breaches of the norms of the Convention as required by article 7(1).

The possibility that an accused torturer could still plead a number of defenses that would grant him/her immunity, including that foreign proceedings had been conducted for the purpose of shielding the accused from criminal responsibility; that the offense was committed in obedience of the law in force at the time; or that the accused had a motivation other than an intention to be inhumane.

### *Paragraph 59*

It is recommended that the State party:

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Comply fully with article 3(1) of the Convention prohibiting return of a person to another state where there are substantial grounds for believing that the individual would be subjected to torture, whether or not the individual is a serious criminal or security risk.

Enhance the effectiveness of the remedies to protect the rights granted by article 3(1) of the Convention. Noting the assurances that the proposed new Immigration and Refugee Act provides for a pre-removal risk assessment "available to all persons under a removal order", the State party is encouraged to ensure that the proposed new legislation permits in-depth examination by an independent entity of claims, including those from persons already assessed as security risks. The State party is urged to ensure that obstacles to the full implementation of article 3 are removed, so that an opportunity is given to the individual concerned to respond before a security risk decision is made, and that assessments of humanitarian and compassionate grounds are made without demanding a fee from a person who seeks protection.

Prosecute every case of an alleged torturer in a territory under its jurisdiction where it does not extradite that person and the evidence warrants it, and prior to any deportation.

Remove from current legislation the defences that could grant an accused torturer immunity.

Consider the creation of a new investigative body for receiving and investigating complaints regarding the Convention, such as those pertaining to the subjects of concern cited above, including allegations related to members of the indigenous population.

- Cameroon, CAT, A/56/44 (2001) 28 at paras. 63-66.

### *Paragraph 63*

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

### *Paragraph 64*

Difficulties experienced by the State party including those of an economic nature are noted. Nevertheless, no exceptional circumstances of any kind can be invoked to justify torture.

### *Paragraph 65*

The following is of concern:

The fact that, despite the policy pursued by the Government, torture seems to remain a widespread

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practice.

The gap between the adoption of rules in accordance with human rights standards, including those designed to prevent the practice of torture, and the findings made *in situ* by an independent entity such as the Special Rapporteur on the question of torture, who reports the existence of numerous cases of torture.

The imbalance between the large number of allegations of torture or ill-treatment and the small number of prosecutions and trials.

The absence of legislative provisions for the compensation and rehabilitation of victims of torture, contrary to the provisions of article 14 of the Convention.

The absence of legislative provisions rendering evidence obtained through torture inadmissible, pursuant to article 15 of the Convention.

The fact that security considerations seem to be given precedence over all other matters, including the prohibition of torture.

The many human rights violations attributable to two special forces, the Operational Command and the Task Force of the National Gendarmerie (GIGN).

### *Paragraph 66*

It is recommended that the State party:

Introduce a mechanism into its legislation for the fullest possible compensation and rehabilitation of the victims of torture.

Introduce provisions into its legislation for the inadmissibility of evidence obtained through torture, except in the case of acts carried out against the perpetrator of torture in order to prove that an act of torture has been committed.

Pursue energetically any inquiries already under way into allegations of human rights violations and, in cases which have yet to be investigated, give the order for prompt and impartial inquiries to be opened.

Pursue the training programme for law enforcement personnel in human rights, with particular reference to the prohibition of torture.

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- Georgia, CAT, A/56/44 (2001) 35 at paras. 81 and 82.

### *Paragraph 81*

Concern is expressed over the following:

The admitted continuing acts of torture and other acts of cruel, inhuman or degrading treatment or punishment in Georgia committed by law enforcement personnel.

The failure to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture, as well as insufficient efforts to prosecute alleged offenders in non-compliance with articles 12 and 13 of the Convention, resulting in a state of impunity of alleged offenders.

The unacceptable conditions in prisons, which may violate the rights of persons deprived of their liberty as contained in article 16.

### *Paragraph 82*

It is recommended that :

Measures be taken to ensure that all persons deprived of their liberty or arrested by law enforcement officials: i) are informed promptly of their rights, including the right to complain to the authorities against ill-treatment, the right to be informed promptly of the charges against them and the right to counsel and doctor of their choice; ii) have prompt access to counsel and doctor of their choice as well as family members.

In order to ensure that perpetrators of torture do not enjoy impunity, urgent steps be taken to: i) establish an effective and independent complaints mechanism; ii) make provisions for the systematic review of all convictions based upon confessions that may have been obtained through torture; iii) make adequate provisions for compensation and rehabilitation of victims of torture.

Steps be taken to continue education and training activities on the prevention of torture and the protection of individuals from torture and ill-treatment for police and for the staff of prisons, as well as for forensic experts and medical personnel in prisons in examining victims of torture and documenting acts of torture.

- Bolivia, CAT, A/56/44 (2001) 40 at paras. 93 and 95-98.

### *Paragraph 93*

It is noted that the lack of training in human rights and, in particular, in the prohibition of torture given to law-enforcement officials and members of the armed forces, has resulted in a situation in

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which serious ill-treatment and torture are inflicted.

### *Paragraph 95*

Concern is expressed with respect to the following:

The continuing complaints of torture and other cruel, inhuman or degrading treatment, resulting on many occasions in death, both in police stations and in prisons and military barracks.

The impunity accorded to human rights violations and, in particular, the use of torture, which appears to be widespread, resulting from the lack of any investigation of complaints and the slow pace and inadequacy of such investigations, which demonstrates the lack of effective action by the authorities to eradicate these practices and, in particular, the dereliction of duty on the part of the Public Prosecutor's Office and the courts. The lack of investigations is compounded by the failure to remove the accused police officers from office, further reaffirming impunity and encouraging the continuation or repetition of these practices.

Failure to respect the maximum period for holding persons incommunicado, set at 24 hours in the Constitution, which facilitates the practice of torture and cruel, inhuman and degrading treatment, and impunity therefore.

Overcrowding, lack of amenities and poor hygiene in prisons, the lack of basic services and of appropriate medical attention in particular, the inability of the authorities to guarantee the protection of detainees in situations involving violence within prisons. In addition to contravening the United Nations Standard Minimum Rules for the Treatment of Prisoners, these and other serious inadequacies aggravate the deprivation of liberty of prisoners serving sentences and those awaiting trial, making such deprivation cruel, inhuman and degrading punishment and, in the case of the latter, punishment served in advance of sentence.

Information it has received regarding the inhuman conditions under which prisoners are held in the facilities known as *carceletas* in the Chapare area, Santa Cruz, Cochabamba and other cities in which, in addition to the illegal nature of the so-called "legal deposit" imprisonment which does not exist in domestic law, detainees are held in subhuman conditions for indeterminate periods, sometimes lasting several months, and where juvenile and adult detainees are held together, as are prisoners awaiting trial and those already serving sentences. In addition, the disciplinary confinement in punishment cells of the kind known as *el bote* (the can) is tantamount to torture.

The numerous complaints submitted to the Ombudsman and the Human Rights Commission established by the Chamber of Deputies regarding treatment in breach of articles 1 and 16 of the Convention, which in some cases have caused serious injury and even loss of life, inflicted on soldiers in barracks during their compulsory military service under the pretext of disciplinary measures.

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The excessive and disproportionate use of force and firearms by the National Police and the armed forces in suppressing mass demonstrations resulting from social conflicts which, by remaining unpunished, encourage the repetition of such abuses and appear to indicate tacit approval on the part of the authorities. The torture, arbitrary detention and ill-treatment perpetrated by the police and military forces in their own facilities are particularly serious during periods when a state of siege has been declared.

The return to their country of refugees from Peru without complying with procedural formalities that would have enabled them to present reasons why they were afraid of being returned to their country of origin.

### *Paragraph 96*

The exceptional nature of those few cases in which the State has accepted its obligation to compensate for damage caused by exceptionally serious violations of the right to life would appear to demonstrate the absence of any State policy relating to redress for victims of human rights violations. There is particular concern about the lack of government initiatives for the rehabilitation of torture victims.

### *Paragraph 97*

It is recommended that the State party:

Step up the activities to protect, defend and promote human rights which, according to its report, the State party has been developing, particularly those relating to vocational training for all law-enforcement officials.

Adopt the necessary legal and administrative measures to set up a national public register of persons deprived of liberty, indicating the authority which ordered such deprivation, the grounds for the relevant decisions and the type of proceedings.

Adopt the necessary measures to ensure effective compliance by government procurators with their duty to conduct criminal investigations into any complaint of torture and cruel, inhuman or degrading treatment in a prompt and impartial manner; during these investigations, the accused officials should be suspended from their duties.

Set up a centralized public register of complaints of torture and ill-treatment and of the results of the investigations.

Review the disciplinary procedures and rules in prisons so as to ensure that violations are dealt with impartially and that any inhuman and cruel punishments are excluded.

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Adopt adequate measures to ensure that no person can be expelled, returned or extradited to another State where there are substantial grounds for believing that that person would be in danger of being subjected to torture; steps must be taken to ensure that these persons have the possibility of explaining these grounds in impartial and adversarial proceedings whose findings are subject to review by a higher authority.

### *Paragraph 98*

The judiciary and the Public Prosecutor's Office are particularly urged to take the lead in action to redress serious omissions in the investigation and punishment of torture and cruel, inhuman and degrading treatment.

- Slovakia, CAT, A/56/44 (2001) 43 at paras. 104 and 105.

### *Paragraph 104*

Concern is expressed about the following:

Exceptions to the guarantees of article 3, regarding the return of persons at risk of torture, in contradiction to the absolute prohibition of article 3.

Allegations of instances of police participation in attacks on Roma and other members of the population, as well as allegations of inaction by police and law enforcement officials who fail to provide adequate protection against racially motivated attacks when such groups have been threatened by 'skinheads' or other extremist groups.

Failure on the part of the authorities to carry out prompt, impartial and thorough investigations into allegations of such actions or to prosecute and punish those responsible.

Allegations that law enforcement officials have ill-treated detainees during detention and in police custody, particularly in lock-ups and police cells.

### *Paragraph 105*

It is recommended that the State party:

Take measures to initiate an effective, reliable and independent complaint system to undertake prompt, impartial, and effective investigations into allegations of ill-treatment or torture by police and other public officials, and where the findings are warranted, to prosecute and punish alleged perpetrators.

Adopt measures to ensure that statements or information obtained through coercion is not admissible

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as evidence in courts and that legal provisions permitting the use of physical force by police officials be reviewed, revised, as appropriate, and implemented in accordance with the requirements of the Convention.

Adopt measures to prevent inter-prisoner violence, including sexual violence, in places of detention.

Make adequate provisions for compensation and rehabilitation of victims of torture and ill-treatment.

Continue to provide human rights training for law enforcement, military and other officials, including those operating in local communities, as well as for those at border areas, and those serving at officially administered institutions, and provide clear guidelines on the prohibition against torture and ill-treatment and the prohibition on returning persons facing a probable risk of torture.

- Czech Republic, CAT, A/56/44 (2001) 46 at paras. 113 and 114.

### *Paragraph 113*

Concern is expressed over the following:

Concern remains about continuing incidents of discrimination against Roma, including by local officials, and particularly about reports of degrading treatment by the police of members of minority groups, continuing reports of violent attacks against Roma and the alleged failure on the part of police and judicial authorities to provide adequate protection, and to investigate and prosecute such crimes, as well as the lenient treatment of offenders.

Allegations of the excessive use of force by law enforcement officials during and after demonstrations, particularly alleged instances of cruel, inhuman and degrading treatment of persons arrested and detained as a result of the demonstrations during the IMF/World Bank meeting in Prague in September 2000.

The lack of a mechanism of external control of the work of the police.

### *Paragraph 114*

It is recommended that:

The State party continue its efforts to counter all forms of discrimination against minorities and to implement its long-term policy aimed at the integration of the Roma population through legal as well as practical measures, and, in particular, to increase efforts to combat and adequately sanction police ill-treatment of minorities and their failure to provide them with adequate protection.



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The State party ensure the independence and thoroughness of investigations of all allegations of ill-treatment in general and in connection with the IMF/World Bank meeting in September 2000 in particular, and to provide information on the findings and measures taken, including prosecutions and compensation to victims, as appropriate.

The State party take appropriate measures to ensure the independence of investigations of offences committed by law enforcement officials by introducing a mechanism of external control.

- Brazil, CAT, A/56/44 (2001) 49 at paras. 118-120.

### *Paragraph 118*

The following is noted with satisfaction:

The political will expressed by the State party to combat the practice of torture, and its eagerness to cooperate with United Nations bodies and regional organizations to this end.

The frankness and transparency with which the Government recognizes the existence, seriousness and extent of the practice of torture in Brazil.

The State party's efforts concerning the implementation of an education programme and the national human rights promotion campaign (scheduled for June 2001) aimed at sensitizing public opinion and the official actors concerned to action to combat torture. The other measures taken by the State party to meet the concerns of the Special Rapporteur on torture following his visit to Brazil are welcomed.

The promulgation, in April 1997, of Law No. 9455/97 (Torture Act), which introduced into Brazilian criminal law the categorization of torture as an offence, with appropriate penalties.

The legislation relating to refugees and the establishment of a procedure aimed at ensuring that an asylum-seeker is not returned to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

The external monitoring of the police by the Public Prosecutor's Office and the efforts to reinforce external and independent supervision through the appointment of police ombudsmen in several states.

The contributions regularly paid by the State party to the United Nations Voluntary Fund for Victims of Torture.

### *Paragraph 119*

Concern is expressed about the following:

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The persistence of a culture that accepts abuses by public officials, the numerous allegations of acts of torture and cruel, inhuman or degrading treatment - in police stations, prisons and facilities belonging to the armed forces - and the *de facto* impunity enjoyed by the perpetrators of those acts.

The overcrowding, lack of amenities and poor hygiene in prisons, the lack of basic services and of appropriate medical attention in particular, and violence between prisoners and sexual abuse. There is particular concern about allegations of ill-treatment and discriminatory treatment of certain groups with regard to access to the already limited essential services, notably on the basis of social origin or sexual orientation.

The long periods of pre-trial detention and delays in judicial procedure which, together with the overcrowding in prisons, have resulted in convicted prisoners and prisoners awaiting trial being held in police stations and other places of detention not adequately equipped for long periods of detention, a fact which could in itself constitute a violation of the provisions of article 16 of the Convention.

The competence of the police to conduct inquiries following reports of crimes of torture committed by members of police forces without effective control in practice by the Public Prosecutor's Office, with the result that immediate and impartial inquiries are prevented, which contributes to the impunity enjoyed by the perpetrators of these acts.

The absence of an institutionalized and accessible procedure to guarantee victims of acts of torture the right to obtain redress and to be fairly and adequately compensated, as provided for in article 14 of the Convention.

The absence in Brazilian legislation of an explicit prohibition on any statement obtained through torture being accepted as evidence in judicial proceedings.

### *Paragraph 120*

The following is recommended:

It should be ensured that the law on the crime of torture is interpreted in conformity with article 1 of the Convention.

All necessary measures should be taken to ensure that immediate and impartial inquiries are carried out, under the effective control of the Public Prosecutor's Office, in all cases of complaints of torture or cruel, inhuman or degrading treatment, including acts committed by members of police forces. During such inquiries, the officers concerned should be suspended from their duties.

Urgent measures should be taken to improve conditions of detention in police stations and prisons, and the State party should, moreover, redouble its efforts to remedy prison overcrowding and

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establish a systematic and independent system to monitor the treatment in practice of persons arrested, detained or imprisoned.

The State party should reinforce human rights education and promotion activities in general and regarding the prohibition of torture in particular, for law-enforcement officials and medical personnel, and introduce training in these subjects in official education programmes for the benefit of the younger generations.

Measures should be taken to regulate and institutionalize the right of victims of torture to fair and adequate compensation payable by the State, and to establish programmes for their fullest possible physical and mental rehabilitation.

The State party should explicitly prohibit the use as evidence in judicial proceedings of any statement obtained through torture.

The State party should make the declarations provided for in articles 21 and 22 of the Convention.

- Kazakhstan, CAT, A/56/44 (2001) 52 at para. 129.

It is recommended that the State party:

Take urgent and effective steps to establish a fully independent complaints mechanism, to ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate, of alleged perpetrators.

Expand the powers of the Presidential Human Rights Commission into an independent and impartial governmental and non-governmental national human rights commission in conformity with the Paris Principles, with effective powers, *inter alia*, to investigate all complaints of human rights violations, in particular those pertaining to the implementation of the Convention.

Review cases of convictions based on confessions that may have been obtained through torture or ill-treatment, and ensure adequate compensation to victims.

Ensure the training of specialized personnel to identify signs of physical and psychological torture and ensure, when such personnel are requalified, that their examinations include awareness of the Convention's requirements.

- Costa Rica, CAT, A/56/44 (2001) 55 at paras. 134-136.

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### *Paragraph 134*

The following is noted with satisfaction:

The supremacy of international human rights instruments in general and the Convention in particular over domestic law, including the Constitution, to the extent that they contain broader rights and guarantees than those recognized in the latter.

The Committee has not received any information from non-governmental organizations about acts or situations that might constitute non-compliance with the obligations under the Convention.

The inclusion in domestic law of provisions that permit the extraterritorial enforcement of criminal law in order to prosecute and punish persons responsible for torture.

The adequate legal and institutional regime for the protection and promotion of human rights, including the existence of numerous bodies and institutions available to the persons concerned for lodging complaints of torture or cruel, inhuman or degrading treatment.

### *Paragraph 135*

Concern is expressed about the following:

The fact that torture is not characterized as a specific offence, despite the express prohibition of torture in the Constitution.

The inadequacy of training concerning the prohibition of torture for police officers and prison personnel.

The cases of abuse of authority by police officers and prison personnel.

The overpopulation of prisons, which has led to overcrowding, caused by inadequate investment in prison infrastructure and the use of deprivation of liberty and longer prison sentences as virtually the sole response to an increase in crime.

The absence of State programmes for the rehabilitation of torture victims.

The maximum-security detention regime, comprising 23 hours of confinement and just one hour outside the cell, appears excessive.

The absence of statistical data in the report on cases of abuse of authority, the results of the investigations conducted in such cases and the consequences for the victims in terms of redress and

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compensations.

### *Paragraph 136*

It is recommended that the State party:

Include the crime of torture in the Criminal Code in terms consistent with article 1 of the Convention and with a penalty commensurate with its seriousness, as prescribed in article 4, paragraph 2, of the Convention;

Step up training activities, with the specific inclusion of full information on the prohibition of torture in the training of police officers and prison personnel;

Make the declarations provided for in articles 21 and 22 of the Convention;

### *See also:*

- Bolivia, CAT, A/56/44 (2001) 40 at paras. 95 and 97.

### **CRC**

- Bolivia, CRC, CRC/C/16 (1993) 13 at para. 42.

The Government should consider the possibility of acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- Viet Nam, CRC, CRC/C/16 (1993) 18 at para. 66.

The appropriate amendments should be made to the Penal Code in order to adequately reflect the provisions contained in articles 37, 39 and 40 of the Convention, as well as the relevant provisions of the Code of Conduct for Law Enforcement Officials and other international standards in this field, such as the "Beijing Rules", the "Riyadh Guidelines" and the Rules for the Protection of Juveniles Deprived of their Liberty. In this connection, a training course for law enforcement personnel should be organized by the Centre for Human Rights.

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- Sudan, CRC, CRC/C/16 (1993) 27 at para. 116.

The non-compatibility of certain areas of national legislation with the provisions and principles of the Convention, including the punishment of flogging, is noted.

- Peru, CRC, CRC/C/20 (1993) 16 at para. 70.

Investigations should be conducted into cases of extrajudicial executions, disappearances and torture which are carried out in the context of the internal violence prevailing in several parts of the country. Those accused of such abuses should be tried and, when found guilty, punished. Furthermore, special measures should be taken to ensure that children are protected against the occurrence of such human rights violations and that they benefit from recovery and reintegration programmes in an environment which fosters the dignity and the self-confidence of the child.

- Sudan, CRC, CRC/C/20 (1993) 22 at para. 111.

It is hoped that the review of child-related laws will result in the total abolition of flogging.

- Norway, CRC, CRC/C/29 (1994) 27 at para. 168.

The State party should consider in its legislation the implications of article 37 (a) of the Convention on the Rights of the Child and, in this connection, it should also pay attention to the definition of torture provided for in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Norway is also a party.

- Philippines, CRC, CRC/C/38 (1995) 12 at para. 66.

Serious consideration should be given to raising the age limit for sexual consent and penal responsibility, to eliminating discrimination towards children born out of wedlock, to the prohibition of torture and to the revision of legal provisions with regard to the administration of juvenile justice.

- Colombia, CRC, CRC/C/38 (1995) 16 at paras. 88 and 93.

*Paragraph 88*

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The life-threatening situation faced by an alarming number of children, particularly those who, in order to survive, are working and/or living on the streets, is of grave concern. Many of those children are victims of "social cleansing" campaigns and subject to arbitrary arrest, torture and other inhuman or degrading treatment by authorities.

### *Paragraph 93*

The State party should take firm measures to ensure the right to survival for all children in Colombia, including those who live in a situation of poverty, who have been abandoned, or those who are forced to live and/or work in the streets in order to survive. Such measures should aim at the effective protection of children against the occurrence of violence, disappearance, assassination or alleged organ trafficking. Through and systematic investigation should be carried out and severe penalties applied to those found responsible for such gross violations of children's rights.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/38 (1995) 35 at para. 218.

The national legal provisions dealing with reasonable chastisement within the family are of concern. The imprecise nature of the expression of reasonable chastisement, as contained in these legal provisions may pave the way for it to be interpreted in a subjective and arbitrary manner. Thus, the legislative and other measures relating to the physical integrity of children are of concern. Of equal concern is that privately funded and managed schools are still permitted to administer corporal punishment to children in attendance.

- Canada, CRC, CRC/C/43 (1995) 16 at paras. 82 and 93.

### *Paragraph 82*

Further measures are needed to effectively prevent and combat all forms of corporal punishment and ill-treatment of children in schools or in institutions where children may be placed. The existence of child abuse and violence within the family and the insufficient protection afforded by the existing legislation in that regard is also of concern.

### *Paragraph 93*

Penal legislation allowing corporal punishment of children by parents, in schools and in institutions where children may be placed, should be considered for review. In this regard, physical punishment of children in families should be prohibited. In connection with the child's right to physical integrity, and in light of the best interests of the child, the possibility of introducing new legislation and follow-up mechanisms to prevent violence within the family should be considered. Educational campaigns should be launched with a view to changing attitudes in society on the use of physical

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punishment in the family and fostering the acceptance of its legal prohibition.

- Ukraine, CRC, CRC/C/46 (1995) 11 at para. 75.

The clear prohibition of torture or other cruel, inhuman or degrading treatment or punishment, as well as a ban on corporal punishment in the family, should be reflected in the national legislation. Procedures and mechanisms should be developed to monitor complaints of maltreatment and cruelty within or outside the family. Special programmes should be set up to promote physical and psychological recovery and social reintegration of child victims of any form of neglect, abuse, exploitation, torture or ill-treatment in an environment which fosters the health, self-respect and dignity of the child.

- Germany, CRC, CRC/C/46 (1995) 15 at para. 108.

Efforts should be pursued to change attitudes, with a view to eradicating all forms of violence against children, including the use of corporal punishment within the family. In this regard, the ongoing process of reforming the Civil Code is encouraged. Consideration should be given to the incorporation of an absolute ban on corporal punishment.

- Senegal, CRC, CRC/C/46 (1995) 21 at para. 138.

Specific provisions should be included in domestic law forbidding clearly female genital mutilation and any form of torture or cruel, inhuman or degrading treatment or punishment, as well as of any form of corporal punishment within the family. Adequate legislative and other measures should also be taken to establish a complaints procedure for children whose fundamental rights have been violated.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), CRC, CRC/C/57 (1996) 23 at para. 151.

Further attitudinal changes in society are required towards the prevention of child abuse, not only as regards the non-acceptance of corporal punishment and physical and psychological abuse, but also greater respect for the inherent dignity of the child.

- Mauritius, CRC, CRC/C/57 (1996) 29 at para. 191.



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All appropriate measures should be taken to prevent and combat ill-treatment of children, including child abuse within the family, corporal punishment, child labour and the sexual exploitation of children, including victims of sexual tourism. The Penal Code should be amended. Further measures should be taken with a view to ensuring the physical and psychological recovery and rehabilitation of the victims of abuse, neglect, ill-treatment, violence or exploitation.

- Bulgaria, CRC, CRC/C/62 (1997) 7 at para. 54.

All appropriate measures should be taken to prevent and combat corporal punishment, sexual abuse and exploitation and ill-treatment of children, including in institutions and in detention centres. Corporal punishment should be prohibited by civil legislation and appropriate legal measures should be taken to combat sexual abuse and exploitation of children. Cases of abuse should be properly investigated, sanctions applied to perpetrators and publicity given to the decisions taken in those cases. Further measures should be taken with a view to ensuring the physical and psychological recovery and social reintegration of the victims of abuse, neglect, ill-treatment, violence or exploitation.

- Ethiopia, CRC, CRC/C/62 (1997) 12 at paras. 79 and 86.

### *Paragraph 79*

Concern is expressed at the possibility, provided for in article 172 of the Penal Code, to sentence children to corporal punishment at the sole discretion of the judge, in particular with regard to the "bad or good character" of the child in determining the penalty to be applied to the child, and at the possible limitations of the right to legal counsel.

### *Paragraph 86*

The provisions for the minimum age of marriage for girls at 15 years, the sentencing of children to corporal punishment, the "light bodily punishment" as an educational measure within the family, and the limitation of the right to legal counsel of children should be abolished as a matter of priority.

- New Zealand, CRC, CRC/C/62 (1997) 38 at para. 243.

Legislation should be reviewed with regard to the corporal punishment of children within the family

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in order to effectively ban all forms of physical or mental violence, injury or abuse.

- Ghana, CRC, CRC/C/66 (1997) 15 at paras. 90 and 110.

### *Paragraph 90*

The institutionalized use of corporal punishment as a means of discipline, particularly in schools, as well as the absence of a comprehensive law that clearly prohibits the use of both mental and physical torture or other cruel, inhuman or degrading treatment or punishment against children are matters of deep concern.

### *Paragraph 110*

Corporal punishment should be prohibited by law and references to disciplinary measures using physical force, such as caning, should be withdrawn from the Teachers Handbook. Appropriate creative and socio-educational measures of discipline should be developed and implemented, which respect all the rights of the child.

- Bangladesh, CRC, CRC/C/66 (1997) 22 at paras. 141 and 154.

### *Paragraph 141*

The persistence of corporal punishment and its acceptance by society and instances of violence committed by law enforcement officials against abandoned or "vagrant" children are matters of serious concern.

### *Paragraph 154*

Accession to other international human rights instruments, including the two International Covenants on Human Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is recommended.

- Australia, CRC, CRC/C/69 (1997) 16 at para. 108.

All appropriate measures, including those of a legislative nature, should be taken to prohibit corporal punishment in private schools and at home. Awareness-raising campaigns should be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity. Cases of abuse and ill-treatment of children, including sexual abuse within the family, should be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken. Further measures should be taken with a view to ensuring the physical and psychological recovery and social reintegration of the victims of abuse, neglect, ill-treatment, violence or

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exploitation.

*See also:*

- Ireland, CRC, CRC/C/73 (1998) 14 at para. 101.
  
- Uganda, CRC, CRC/C/69 (1997) 21 at paras. 132 and 136.

*Paragraph 132*

Of concern is the use of corporal punishment in some schools and in law enforcement institutions, even though it is prohibited by law.

*Paragraph 136*

Deep concern is expressed that the rules of international humanitarian law applicable to children in armed conflict are being violated. Furthermore, the abduction, killings and torture of children occurring in this area of armed conflict and the involvement of children as child soldiers are matters of concern.

- Czech Republic, CRC, CRC/C/69 (1997) 28 at paras. 175 and 192.

*Paragraph 175*

That corporal punishment is still used by parents and that internal school regulations do not contain provisions explicitly prohibiting corporal punishment are matters of concern.

*Paragraph 192*

Further measures should be undertaken to protect children from abuse and maltreatment, particularly through the development of a widespread public information campaign for the prevention of corporal punishment at home, at school and in other institutions.

- Trinidad and Tobago, CRC, CRC/C/69 (1997) 33 at paras. 216, 231 and 238.

*Paragraph 216*

The use of corporal punishment within the family, at school and in care institutions, as well as the absence of a law that clearly prohibits the use of both mental and physical torture or other cruel,

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inhuman or degrading treatment or punishment against children is of deep concern.

### *Paragraph 231*

Corporal punishment within the family, at school and in care institutions should be prohibited by law. The authorities should develop and implement appropriate creative and socio-educational measures of discipline, which respect all the rights of the child, and should establish sensitization programmes for parents.

### *Paragraph 238*

Corporal punishment in detention as a means of discipline, and flogging as a means of punishment, should be abolished in the legislation and in practice.

- Togo, CRC, CRC/C/69 (1997) 39 at para. 256.

The absence of a comprehensive law that clearly prohibits corporal punishment of children is of concern.

- Democratic People's Republic of Korea, CRC, CRC/C/79 (1998) 13 at para. 85.

Ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be considered as they all have an impact on the rights of the child.

- Fiji, CRC, CRC/C/79 (1998) 18 at para. 135.

Corporal punishment should be comprehensively prohibited by law and measures should be taken to raise awareness on the negative effects of corporal punishment and to ensure that discipline in schools, families and institutional care is administered in a manner consistent with the child's dignity.

- Iraq, CRC, CRC/C/80 (1998) 15 at para. 77.

It is of concern that corporal punishment is not expressly prohibited in domestic legislation. All appropriate measures should be taken, including of a legislative nature, with the aim of prohibiting corporal punishment at all levels of society. Awareness-raising campaigns should be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's

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human dignity.

- Bolivia, CRC, CRC/C/80 (1998) 22 at para. 108.

While existing legislation prohibits corporal punishment, corporal punishment is still widely used in the family, schools and institutions and this is of concern. The possibility of undertaking educational campaigns, in order to change societal attitudes towards the use of physical punishment within the family, schools and institutions should be considered.

- Thailand, CRC, CRC/C/80 (1998) 35 at para. 172.

All appropriate measures, including of a legislative nature, should be taken to prohibit corporal punishment within the family, the juvenile justice and alternative care systems and generally within the society. Furthermore, awareness-raising campaigns should be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity.

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

- Saint Kitts and Nevis, CRC, CRC/C/87 (1999) 17 at para. 81.
- Belize, CRC, CRC/C/84 (1999) 12 at para. 78.

It is of grave concern that corporal punishment is still widely practised and that domestic legislation does not prohibit its use within schools, the family, the juvenile justice and alternative care systems and generally within society. All appropriate measures, including those of a legislative nature, should be taken to prohibit corporal punishment within school, the family, the juvenile justice and alternative care systems and generally within the society. Awareness-raising campaigns should be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity.

- Guinea, CRC, CRC/C/84 (1999) 21 at para. 110.

Although corporal punishment is prohibited by law, concern remains that traditional societal attitudes still regard its use by parents as an acceptable practice. Measures should be reinforced to raise awareness on the negative effects of corporal punishment and to ensure that discipline in schools, families and all institutions is administered in a manner consistent with the child's dignity. Further,

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the development and administration of alternative disciplinary measures in the family and in schools is recommended.

*See also:*

- Benin, CRC, CRC/C/87 (1999) 35 at para. 150.
  
- Yemen, CRC, CRC/C/84 (1999) 33 at para. 184.

The lack of detention centres for female juvenile offenders; the use of detention other than as a measure of last resort; the poor living conditions in detention centres; the use of physical punishment, including flogging, and torture in detention centres; the lack of rehabilitation measures and educational facilities for juvenile offenders; and the placement of "potential delinquents" in detention centres instead of care institutions for their rehabilitation are all of concern. Legislation should be reviewed in order to reflect the relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Training programmes on relevant international standards should be organized for all professionals working in the system of juvenile justice.

- Barbados, CRC, CRC/C/87 (1999) 9 at paras. 49 and 52.

*Paragraph 49*

Legislation and policies that allow the use of flogging of children as a disciplinary measure in prisons and its use as a judicial sentence are of concern. In this respect, the State party's commitment to give prompt consideration to the possibility of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is welcomed. Public awareness-raising campaigns should be conducted and legislation and policies should be reviewed in order to eliminate flogging as a judicial sentence and as a disciplinary measure in the prison system.

*Paragraph 52*

The high proportion of children who appear to be victims of physical abuse, in most instances accompanied by psychological and emotional abuse, is of serious concern. The subjective element involved in legislation that permits a "reasonable degree" of physical chastisement as a disciplinary method is also of concern. The tolerance of corporal punishment in schools will make it extremely difficult to educate parents about alternative forms of discipline. There is usually a connection

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between the social and legal acceptability of corporal punishment and the high level of child abuse. Domestic policies and legislation should be reviewed in order to eliminate corporal punishment as a method of discipline and to implement fully the provisions of articles 19 and 39 of the Convention.

Efforts should be increased to educate the public about the negative impact of corporal punishment on the development of the child and to prevent child abuse. Finally, the Committee encourages the State party to seek international assistance and advice on successful examples of how to overcome traditional social attitudes regarding corporal punishment.

- Saint Kitts and Nevis, CRC, CRC/C/87 (1999) 17 at para. 93.

All necessary measures should be taken to prohibit the use of corporal punishment within the juvenile justice system, including the repeal of the Corporal Punishment Act (1967).

- Chad, CRC, CRC/C/87 (1999) 45 at paras. 186, 190 and 201.

### *Paragraph 186*

Inadequate enforcement of existing legislation to ensure that children are treated with humanity and respect for the inherent dignity of the human person is of concern. Prompt consideration should be given to the possibility of ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### *Paragraph 190*

The use of corporal punishment in families, schools and other institutions is of concern. Existing legislation that allows the use of corporal punishment in families and correctional facilities is also of concern. Corporal punishment also continues to be used in some religious schools, in spite of legislation banning this practise. Legislation and policies should be reviewed in order to eliminate corporal punishment as a method of discipline and to improve enforcement of the legislation banning corporal punishment in schools. Awareness-raising campaigns should be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity.

International assistance and advice should be sought to overcome traditional social and religious attitudes regarding corporal punishment.

### *Paragraph 201*

The conditions faced by children deprived of liberty, particularly children detained with adults without adequate protection from inhumane treatment, and the insufficiency of programmes for the physical and psychological recovery and social reintegration of juveniles are of concern. Plans to build facilities to separate juveniles from adults and continue training judges should be pursued. All other

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measures needed to implement the relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty should be taken.

- Nicaragua, CRC, CRC/C/87 (1999) 54 at para. 233.

Although domestic legislation protects children against torture, the insufficient judicial procedures to investigate cases of police brutality, ill-treatment or abuse of children are of concern. Judicial mechanisms should be reinforced to deal with complaints of police brutality, ill-treatment and abuse of children, and cases of abuse of children should be duly investigated. Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be considered.

- Venezuela, CRC, CRC/C/90 (1999) 10 at para. 50.

The persistent allegations of children being detained in conditions which amount to cruel, inhuman or degrading treatment, and of children being physically ill-treated by members of the police or the armed forces, are of concern. Judicial mechanisms should be used to effectively deal with complaints of police brutality, ill-treatment and the abuse of children. Cases of violence and abuse against children should be duly investigated in order to avoid the impunity of perpetrators.

### *See also:*

- Dominican Republic, CRC, CRC/C/103 (2001) 91 at paras. 509 and 510.
- Mexico, CRC, CRC/C/90 (1999) 34 at para. 182.
  
- Russian Federation, CRC, CRC/C/90 (1999) 18 at paras. 90-92 ,118 and 130.

### *Paragraph 90*

Allegations of the widespread practice of torture and ill-treatment, and conditions amounting to inhuman or degrading treatment, of children living in institutions in general and in places of detention or imprisonment in particular, including acts committed by law enforcement officials involving corporal punishment, are of concern.

### *Paragraph 91*

Appropriate measures should be taken to bring to an end to and to prevent these practices and to duly



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investigate allegations and punish perpetrators of such acts. The recommendations of the Committee against Torture and the Special Rapporteur on Torture with regard to these concerns are endorsed.

### *Paragraph 92*

The practice of corporal punishment should be monitored and brought to an end.

### *Paragraph 118*

The lack of respect for the rights of children in areas of ongoing armed conflict, the involvement of children in armed conflict, the violations of provisions of international humanitarian law and the number and situation of internally displaced children are of concern. The application of the death penalty and certain corporal punishments, including mutilation, when sentencing children and allegations of summary executions, involuntary disappearances, arbitrary detention, torture and ill-treatment of children are also of concern.

### *Paragraph 130*

Concern is expressed about reports of police brutality and torture committed against detained juveniles during the investigation of their alleged acts and the extended periods of pre-trial detention of juvenile detainees at the discretion of the Procurator. The treatment of juvenile offenders living in educational colonies, places of pre-trial detention or in special educational establishments, and the poor conditions of detention and in prisons in general, are also of serious concern.

- Vanuatu, CRC, CRC/C/90 (1999) 29 at para. 151.

While corporal punishment is prohibited by law in schools, it remains of concern that traditional societal attitudes continue to encourage the use of such punishment within the family, in schools, care and juvenile justice systems and generally in society. The State party should reinforce measures taken to raise awareness of the negative effects of corporal punishment and ensure that alternative forms of discipline are administered in families, schools and care and other institutions in a manner consistent with the child's dignity and in conformity with the Convention. In this connection, counseling and other programmes should be provided for parents, teachers and professionals working in institutions to encourage the use of alternative forms of punishment. All necessary measures should be taken to ensure the full and effective implementation of the ban on corporal punishment in schools.

- Mali, CRC, CRC/C/90 (1999) 43 at para. 214.

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The insufficient measures taken to prevent and prohibit police brutality and the inadequate enforcement of existing legislation to ensure that children are treated with respect for their physical and mental integrity and their inherent dignity is of concern. Greater efforts should be made to prevent police brutality, to ensure that child victims are provided with adequate treatment to facilitate their physical and psychological recovery and social reintegration and that perpetrators are sanctioned. In this connection, ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be considered.

*See also:*

- South Africa, CRC, CRC/C/94 (2000) 81 at para. 434.
- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 481 and 482.
  
- India, CRC, CRC/C/94 (2000) 10 at para. 70.

With respect to article 37 (a) of the Convention, concern is expressed about numerous reports of routine ill-treatment, corporal punishment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children living and/or working on the streets by law enforcement officials.

- Sierra Leone, CRC, CRC/C/94 (2000) 24 at paras. 159, 160, 162 and 185.

*Paragraph 159*

Grave concern is expressed over the reported massive occurrence of torture and other cruel, inhuman or degrading treatment or punishment, including amputations and mutilations, committed against children.

*Paragraph 160*

Recognizing that the majority of these acts were committed in the context of the armed conflict, and with a view to achieving reconciliation and prevention, the State party is urged to use the truth and reconciliation commission process to raise discussion on such acts. The State party is urged to undertake measures which will ensure that such acts will, in the future, receive an appropriate response through the judicial process.

*Paragraph 162*

In the light of articles 19, 28 (2) and 37 (a) of the Convention, the State party is urged to take

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legislative and educative measures to prohibit the use of corporal punishment by the courts, all public officials and in schools, and to consider the prohibition of its use in the family.

### *Paragraph 185*

The Committee expresses its extremely deep consternation at the very high numbers of children who have been forcibly recruited into armed forces, including children as young as five years old, and who have often been forced to commit atrocities against other people, including other children and members of their community. Great concern is expressed at the horrifying amputation of hands, arms and legs, and at the many other atrocities and acts of violence and cruelty committed by armed persons against children, including, in some cases, against very young children.

- Costa Rica, CRC, CRC/C/94 (2000) 37 at para. 227.

While no cases of torture of children have been reported in the State party, concern is expressed at the lack of explicit legislation prohibiting the use of torture. No sanction is provided for those responsible for torture. In the light of article 37 (a), it is recommended that the State party include a provision in its domestic legislation prohibiting children from being subjected to torture and establishing appropriate sanctions against the perpetrators of torture.

- Grenada, CRC, CRC/C/94 (2000) 72 at para. 412.

Regarding the juvenile justice system, the State party should introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 58 and 59.

### *Paragraph 58*

In light of article 37 (a) of the Convention, serious concern is expressed about persons who committed crimes while under the age of 18 as they can be subjected to corporal punishment, or they can be subjected to a variety of types of cruel, inhuman or degrading treatment and punishment such as amputation, flogging and stoning, which are systematically imposed by judicial authorities. The application of such measures is incompatible with the Convention (concurring with the Human Rights Committee (CCPR/C/79/Add.25)).

### *Paragraph 59*

It is recommended that the State party take all necessary steps to end the imposition of corporal punishment and the imposition of amputation, flogging, stoning and other forms of cruel, inhuman

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or degrading treatment and punishment to persons who may have committed crimes while under 18.

- Georgia, CRC, CRC/C/97 (2000) 18 at para. 131.

The State party should undertake a study on refugee, asylum-seeking and unaccompanied children to ascertain the extent to which they are victims of torture or other cruel, inhuman or degrading treatment and punishment; economic exploitation, including forced labour; commercial sexual exploitation; sale, trafficking and abduction; and abandonment, abuse and neglect.

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 300 and 301.

### *Paragraph 300*

Concern is expressed about the numerous and continuing reports of ill-treatment of persons under 18 by the militia, including psychological intimidation, corporal punishment, torture and abduction. Concern is expressed that victims of such treatment are largely from vulnerable groups, such as refugees; that children are often detained for payment from their families; and that fear of reprisals and inadequate complaints procedures discourage children and their parents from filing complaints. Like the Committee against Torture (CAT/C/23/6), the Committee expresses concern at the absence of a definition of torture in the 1998 Criminal Code and appropriate penalties, and the apparent failure to provide prompt, impartial and full investigation into allegations of torture, as well as the failure to prosecute alleged perpetrators.

### *Paragraph 301*

In light of article 37 of the Convention, and recalling the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the State party should take all necessary and effective steps to prevent incidents of ill-treatment from occurring. The recommendations made by the Committee against Torture (CAT/C/23/6) should be implemented; the militia should be provided with training on how to deal with persons under 18; persons should be adequately informed of their rights when they are detained; complaints procedures should be simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; and rehabilitative support should be provided to victims.

### *See also:*

- Tajikistan, CRC, CRC/C/100 (2000) 53 at paras. 295 and 296.
  
- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 123 and 124.

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### *Paragraph 123*

Concern is expressed about the large number of children in regroupment camps and the extremely poor conditions in which they have to live, constituting, in many cases, cruel, inhuman and degrading treatment and violating numerous minimum standards with respect to children's rights.

### *Paragraph 124*

The State party is urged to complete, without further delay, the process of closing the regroupment camps and, pending closure, to guarantee respect of all the civil rights and freedoms of children and their families living in such camps.

- Colombia, CRC, CRC/C/100 (2000) 64 at paras. 356, 360 and 361.

### *Paragraph 356*

In the light of article 6 and other related provisions of the Convention, deep concern is expressed at the threat posed by the armed conflict to children's lives, including instances of extrajudicial killing, disappearance and torture committed by the police and paramilitary groups; at the multiple instances of "social cleansing" of street children; and at the persistent impunity of the perpetrators of such crimes.

### *Paragraph 360*

In the light of its previous recommendation concerning the need to conduct special investigations in cases of gross violations of human rights involving children, the Committee regrets the lack of follow-up information on this issue and reiterates its concern about alleged cases of street children tortured and ill-treated by members of the police and/or paramilitary groups.

### *Paragraph 361*

The State party is urged to undertake effective measures to ensure that such acts receive an appropriate response through the judicial process, in order to avoid impunity for the perpetrators. Care and rehabilitation programmes should be established for child victims of torture and ill-treatment.

- Marshall Islands, CRC, CRC/C/100 (2000) 89 at paras. 519 and 520.

### *Paragraph 519*

Concern is expressed that the use of corporal punishment within the family, schools, other institutions, and generally within society is not expressly prohibited by law.

### *Paragraph 520*

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In light of articles 19, 28 (2) and 37 of the Convention, appropriate legislative measures should be adopted to prohibit the use of any form of corporal punishment within the family, schools and other institutions. The State party is encouraged to develop measures to raise awareness about the negative effects of corporal punishment and ensure that alternative forms of discipline are administered in families, schools and other institutions in a manner consistent with the child's dignity and in conformity with the Convention.

- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 383, 384, 407 and 408.

### *Paragraph 383*

It is noted with concern that several rights contained in the Convention are not reflected in domestic law. In particular, the Basic Law and other applicable laws do not expressly guarantee non-discrimination on the basis of all the grounds contained in article 2 of the Convention. The incompatibility of certain areas of domestic law with the Convention are noted (e.g. discrimination against females and non-Muslims and the use of judicial punishments such as flogging). Many laws relevant to children's rights (i.e. personal status laws, the criminal code, and the criminal and civil procedure codes) remain uncodified.

### *Paragraph 384*

The State party should conduct a comprehensive review of the Basic Law and domestic laws, including administrative regulations and legal procedural rules, to ensure that they conform to international human rights standards, including the Convention, that they are sufficiently clear and precise, are published, and are accessible to the public.

### *Paragraph 407*

In light of article 37 (a) of the Convention, serious concern is expressed that while in detention, persons under 18 may be subjected to corporal punishment, such as flogging, under article 28 of the 1977 Detention and Imprisonment Regulations. It is disturbing that persons who committed crimes when they were under 18 may be sentenced to a variety of methods of cruel, inhuman or degrading treatment or punishment such as flogging, stoning and amputation, which are systematically imposed by judicial authorities. The application of such measures is incompatible with the Convention. Concern is expressed that members of the Committees for the Propagation of Virtue and the Prevention of Vice routinely harass and assault persons under 18 for dress code infractions.

### *Paragraph 408*

The State party should take all necessary steps to end the imposition of corporal punishment, including flogging and other forms of cruel, inhuman or degrading treatment and punishment, on persons who may have committed crimes when they were under 18. All appropriate measures should be taken to ensure that law enforcement officials respect and protect human dignity and maintain and

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uphold the human rights of all persons in the course of their duties.

- Denmark, CRC, CRC/C/108 (2001) 10 at para. 38.

It is noted with satisfaction that in 1997 the right of parents to use corporal punishment on their children was abolished by law. Further satisfaction is expressed at the nationwide awareness raising campaign undertaken to inform parents about the new legislation. Furthermore, note is taken of the efforts to include material in minority languages as a follow-up to the campaign.

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 119, 120, 127 and 128.

### *Paragraph 119*

Extreme concern is expressed about violations of the right of the child not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment that appear in the number of reported cases of torture and/or ill-treatment of children, especially when placed in pre-trial detention. It is noted that in a number of cases children are held *incommunicado* when in police or *gendarma* custody and are not allowed the presence of a lawyer, practices which can provide protection from torture and ill-treatment, and are not interrogated in presence of a prosecutor, as established by law. It is also noted with concern that alleged cases of torture against children are not always duly investigated and perpetrators convicted, thus creating a climate of impunity.

### *Paragraph 120*

In the light of article 37(a) of the Convention and in line with the recommendations of the Special Rapporteur on Torture (see E/CN.4/1999/61/Add.1), it is strongly recommended that the State party enforce, or, where appropriate, review existing legislation, with a view to preventing children being held *incommunicado*, and investigate in an effective way cases of torture and ill-treatment of children. Alleged perpetrators should be transferred from active duty or suspended while they are under investigation and dismissed if convicted. The State party is invited to continue with the systematic training of law enforcement personnel on child rights issues. In light of article 39, the State party is also invited to take all appropriate measures to ensure the physical and psychological recovery and social reintegration of child victims of torture and/or ill treatment.

### *Paragraph 127*

It is of deep concern that physical punishment in the home is culturally and legally accepted and that only “excessive punishment” resulting in physical injury is prohibited by the Penal Code. It is also noted with concern that, although prohibited, corporal punishment is used in schools and other institutions.

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### *Paragraph 128*

In the light of articles 3, 19 and 28(2) of the Convention, the State party is encouraged to develop measures to raise awareness of the harmful effects of corporal punishment and to promote alternative forms of discipline in families that are administered in a manner consistent with the child's dignity and in conformity with the Convention. The ban on corporal punishments in schools and other institutions should be enforced effectively.

### *See also:*

- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 63 and 64.
- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 181, 182, 187 and 188.

### *Paragraph 181*

It is of deep concern that children are regularly the victims of cruel, inhuman or degrading treatment, sometimes constituting torture, committed by, among others, the police, the military, teachers and in the family. It is affirmed that these acts are violations of children's rights.

### *Paragraph 182*

The State party is strongly urged to strengthen its efforts to address the causes and incidence of torture and cruel, inhuman or degrading treatment of children by, among others, the police, the military, teachers and in the family, to end and prevent these violations of children's rights and to ensure that the persons responsible for these acts are brought to justice. The possibility of compensation for the victims of torture and other acts should be considered.

### *Paragraph 187*

In the context of article 19 of the Convention, it is of concern that the corporal punishment of children is permitted under domestic legislation and continues to be practised in State institutions, including schools and places of detention, and in the family.

### *Paragraph 188*

All appropriate measures, including of a legislative nature, should be taken to prohibit and eliminate all forms of corporal punishment in schools and in homes. It is further suggested that awareness-raising and education campaigns be conducted to change public attitudes and ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28(2).

### *See also:*



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- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 56 and 57.
- Guatemala, CRC, CRC/C/108 (2001) 47 at paras. 257, 258, 281 and 282.

### *Paragraph 257*

It is deeply disturbing that violence against children is increasing. In particular, it is noted with great concern that many children fear for their lives because they are continually threatened and are victims of violence, not only when they are living and/or working in the street but also when they are at home. Of particular concern is the alleged involvement of the State Civil Police in some of the alleged cases of violence and the lack of proper investigation of these cases by Guatemalan authorities.

### *Paragraph 258*

It is recommended that the State party take, as a matter of the highest priority, all the necessary steps to prevent these serious violations of children's rights and to ensure that they are properly investigated and that those responsible are brought to justice. In light of article 39, the State party is also invited to take all appropriate measures to ensure the physical and psychological recovery and social reintegration of child victims of torture and/or ill-treatment and to provide adequate compensation. International cooperation could also be sought in this regard.

### *Paragraph 281*

Concern is expressed about the significant number of children living in the streets and it is noted that assistance to these children is provided mainly by non-governmental organizations. Serious concern is expressed at allegations of rape, ill-treatment and torture, including murder for the purpose of "social cleansing", of children living in the streets.

### *Paragraph 282*

The State party should ensure that children living in the streets are provided with rehabilitation services for physical, sexual and substance abuse; protection from police brutality; and services for reconciliation with their families. The State party is encouraged to seek additional international cooperation from, among others, UNICEF and WHO.

- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at paras. 317 and 318.

### *Paragraph 317*

While welcoming the inclusion of a provision in the new Constitution prohibiting torture or other cruel, inhuman or degrading treatment and punishment, concern is expressed about the extremely

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poor conditions of detention for children, amounting in many instances to cruel, inhuman and degrading treatment as spelled out in article 37 (a) of the Convention.

### *Paragraph 318*

The State party should take all necessary measures to improve the conditions of detention of children in prisons and to ensure that each case of violence and abuse is duly investigated in order to avoid impunity being enjoyed by the perpetrators.

- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 388-391 and 419.

### *Paragraph 388*

There is concern about the incidence of police brutality, particularly against children living and/or working on the streets, refugee children and those in conflict with the law. Concern is also expressed about the inadequate enforcement of existing legislation to ensure that all children are treated with respect for their physical and mental integrity and their inherent dignity.

### *Paragraph 389*

It is strongly recommended that all appropriate measures be taken to fully implement the provisions of articles 37 (a) and 39 of the Convention. In this regard, greater efforts should be made to prevent police brutality and to facilitate the recovery of child victims through rehabilitation and compensation. Additionally, effective measures should be taken to ensure that the perpetrators of brutality against children are brought to justice.

### *Paragraph 390*

It is regrettable that the law does not prohibit the use of corporal punishment as a sentence for children and youth in the juvenile justice system. Concern is also expressed that this type of punishment continues to be practised in schools, families and care institutions.

### *Paragraph 391*

Legislative measures should be taken to prohibit all forms of physical and mental violence, including corporal punishment within the juvenile justice system, schools and care institutions as well as in families. The State party is encouraged to intensify its public awareness campaigns to promote positive, participatory, non-violent forms of discipline as an alternative to corporal punishment at all levels of society.

### *Paragraph 419*

The State party should abolish corporal punishment as a sentence within the juvenile justice system.

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- Bhutan, CRC, CRC/C/108 (2001) 85 at paras. 462 and 463.

### *Paragraph 462*

Noting the respect for children in Bhutan, concern is expressed that there is insufficient information and awareness of the ill-treatment of children in schools and within the family.

### *Paragraph 463*

The State party should conduct a study to assess the nature and extent of ill-treatment of children, and design policies and programmes to address it. Legislative measures should be taken to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools, and in institutions. Public education campaigns should be carried out about the negative consequences of ill-treatment of children and should promote positive, non-violent forms of discipline as an alternative to corporal punishment. The State party should also establish effective procedures and mechanisms to receive, monitor and investigate complaints, including intervention where necessary; prosecute instances of ill-treatment, ensuring that the abused child is not victimized in legal proceedings; and train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of ill-treatment cases. The State party should seek assistance from, among others, UNICEF and WHO.

### *See also:*

- Oman, CRC, CRC/C/111 (2001) 36 at paras. 183 and 184.
  - Qatar, CRC, CRC/C/111 (2001) 59 at para. 309.
  - United Arab Emirates, CRC, CRC/C/15/Add.183 (2002) at paras. 34 and 35.
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- Monaco, CRC, CRC/C/108 (2001) 97 at paras. 513 and 514.

### *Paragraph 513*

It is of concern that corporal punishment is not prohibited under law.

### *Paragraph 514*

The practice of corporal punishment in the family should be prohibited. Information campaigns should be conducted that target, among others, parents, children, law enforcement and judicial officials and teachers. These campaigns should explain children's rights in this regard and encourage the use of alternative forms of discipline in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28(2).