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IV. CONCLUDING OBSERVATIONS

CERD

- Kuwait, CERD, A/48/18 (1993) 69 at paras. 376, 377 and 380.

Paragraph 376

Expulsions and other discriminatory measures against especially vulnerable groups of foreigners, including Palestinians, stateless Arabs, Bedoons, Iraqis and nationals of countries which did not participate in the anti-Iraq coalition, and the treatment of foreign domestic servants are of particular concern. Concern was expressed that no specific measures had been envisaged to eliminate discrimination with respect to descent, national or ethnic origin. In that connection, reference was made to the official discrimination between two categories of citizens: those who possessed longstanding nationality and those who have acquired nationality in more recent times.

Paragraph 377

Discriminatory measures leading to the exodus of foreigners in the period following the liberation of Kuwait are of particular concern.

Paragraph 380

The State party should take steps to guarantee the enjoyment by individuals belonging to vulnerable groups of foreigners, including foreign domestic servants, of the rights enshrined in the Convention without any discrimination.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/48/18 (1993) 73 at para. 417.

It is noted with concern that the rate of unemployment among ethnic minorities remains very high and that the primary purpose rule regarding marriage under the immigration regulations might entail discrimination in effect on grounds of ethnic origin.

- France, CERD, A/49/18 (1994) 20 at paras. 144 and 145.

Paragraph 144

Concern is expressed that the implementation of the new immigration and asylum laws could have racially discriminatory consequences, particularly in connection with the imposition of limitations on the right of appeal against expulsion orders and the preventive detention of foreigners at points of entry for excessively long periods. Concern is also expressed that these laws may generate or

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reinforce a xenophobic atmosphere in French society.

Paragraph 145

Concern is expressed over procedures concerning identity controls which confer on the police, for preventive reasons, broad discretion in checking the identity of foreigners in public, a measure which could encourage discrimination in practice.

- Sweden, CERD, A/49/18 (1994) 30 at para. 198.

Concern is expressed about the inadequacy of measures taken by the Government to prevent occurrences of manifestations of xenophobia and racism and to protect effectively potential victims of such manifestations, particularly those from immigrant groups.

- Norway, CERD, A/49/18 (1994) 37 at para. 264.

The State party should review its measures for guaranteeing the economic and social rights of naturalized immigrants and resident aliens of minority ethnic or national origin, with particular reference to the rights to work and to housing.

- Iceland, CERD/ A/49/18 (1994) 61 at para. 405.

Too little attention is paid to foreigners and minorities in the State party's legal system and that there is no specific legislation in the field of racial discrimination.

- Australia, CERD, A/49/18 (1994) 78 at para. 546.

The situation of members of other, non-English-speaking, minorities, particularly refugees or asylum-seekers, as regards enjoyment of their rights and freedoms under article 5 of the Convention is a matter of concern. Immigrants from the African and Asian regions seem not to be adequately protected against discrimination.

- Denmark, CERD, A/51/18 (1996) 17 at para. 70.

It is noted with concern that only three convictions have been registered in the past six years against members of neo-Nazi groups. The recent granting of licences to such groups to operate a radio station and a telephone number to which people allegedly can call to hear a recorded message about

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why migrants and refugees should be deported is also noted with special concern.

- Finland, CERD, A/51/18 (1996) 29 at paras. 182 and 193.

Paragraph 182

The current refugee policies do not fully take into account all of the provisions of the Convention. In some cases, decisions to repatriate asylum-seekers have been taken without proper respect for international human rights standards and the norms of refugee law. Concern is likewise expressed over the criteria employed in granting residence permits to foreigners.

Paragraph 193

It is strongly recommended that the Government take the Convention fully into account when considering policies and/or decisions on asylum-seekers and refugees.

- Spain, CERD, A/51/18 (1996) 32 at para. 205.

Concern is expressed over the increasing manifestations of racism, xenophobia and discrimination against foreigners, asylum-seekers and members of the Gypsy community. It is noted with serious concern that evidence of racist attitudes on the part of members of the police and the Civil Guard seems to be increasing, and that the number of convictions resulting from such incidents does not seem to increase proportionately.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/51/18 (1996) 35 at para. 235.

Concerning the treatment of foreigners, serious concern is expressed that the proposed Asylum and Immigration Bill would alter the status of many persons living in the United Kingdom in an adverse and discriminatory manner. This Bill, if enacted, would, *inter alia*, prohibit employers from employing persons who are in the process of appealing a decision which rejected their petition to remain. It would also deny a number of social services to persons who have been granted permission to remain in the United Kingdom, including asylum-seekers, and others who have been granted permanent leave to stay but have not been naturalized. It is a matter of deep concern that most of the affected persons would be persons belonging to ethnic minorities.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/52/18 (1997) 9 at para. 38.

Concern is expressed at the fact that asylum claims may *a priori* be considered to be unfounded, and

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thus be dealt with more swiftly, when the claimants come from certain countries considered not to "generally give rise to a serious risk of persecution", and at the fact that no right of in-country appeal is granted to asylum seekers sent back to certain safe third countries. The definition of racial discrimination under article 1, paragraph 1, of the Convention includes the effect as well as the purpose of an act, and it is thus noted that the Asylum and Immigration Act of 1996, in its effects, may be contrary to the Convention.

- Germany, CERD, A/52/18 (1997) 25 at paras. 166 and 169.

Paragraph 166

Concern is expressed at instances of police brutality against foreigners, particularly Africans and Turks, which have been reported in the press. Better training and stricter disciplinary action against the perpetrators appear to be necessary.

Paragraph 169

It is noted with concern in connection with article 6 of the Convention that certain categories of foreigners, including those without legal status and temporary residents, are not entitled to redress for acts of racial discrimination committed against them.

- Belgium, CERD, A/52/18 (1997) 31 at para. 222.

The limitation of the temporary or permanent residence of foreigners in certain communes is of concern.

- Mexico, CERD, A/52/18 (1997) 42 at para. 307.

Concern is expressed about the right to security of the person, particularly for indigenous inhabitants and illegal immigrants. This right has in certain cases been violated by representatives of the forces of law and order, paramilitary groups and landowners. All too often, those responsible for these crimes have gone unpunished.

- Sweden, CERD, A/52/18 (1997) 65 at paras. 500 and 509.

Paragraph 500

It is noted with appreciation that the State party has established a system of education for refugees and immigrants.

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Paragraph 509

The policy of promoting equal opportunity in economic and social life for immigrants, refugees and ethnic minorities should be reinforced by appropriate legislative, administrative and other measures.

- Norway, CERD, A/52/18 (1997) 77 at paras. 607, 608, 610 and 615.

Paragraph 607

Concern is expressed over the publications of anti-immigrant racist organizations and over the fact that a radio station is systematically disseminating ideas of racial superiority.

Paragraph 608

Concern is expressed that foreigners and persons belonging to minority groups may not be sufficiently protected, especially in the fields of labour and housing.

Paragraph 610

Reports of the unjustified deportation of foreign nationals, including in some cases asylum seekers and unaccompanied children, are of concern.

Paragraph 615

The State party should continue to strengthen its efforts to promote understanding and tolerance with regard to immigrants in Norway.

- Switzerland, CERD, A/53/18 (1998) 28 at para. 57.

Disquiet is expressed at the three-circle-model immigration policy, which classifies foreigners on the basis of their national origin. The conception and effect of this policy is considered to be stigmatizing and discriminatory, and therefore contrary to the principles and provisions of the Convention. The extensive system of police control of foreigners as well as the naturalization policies and procedures, which are deemed too protracted and selective, are also of concern.

See also:

- Austria, CERD, A/54/18 (1999) 13 at para. 31

- The Netherlands, CERD, A/53/18 (1998) 33 at para. 104.

Concern is expressed over practices relating to the entry and control of foreigners, which could lead to racial discrimination in effect. The State party should take the necessary measures to see that

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regulations and practices in this field do not have that effect.

- Lebanon, CERD, A/53/18 (1998) 42 at para. 183.

It is recommended that all appropriate measures be taken to ensure that all persons, including members of ethnic groups, refugees and foreign workers, be given equal treatment before the law. The State party should ensure that all legal provisions dealing with family-related issues relating to members of ethnic groups and foreigners are fully consistent with the provisions of the Convention.

- Cameroon, CERD, A/53/18 (1998) 53 at para. 272.

The State party should take all appropriate measures to prevent and eliminate acts of racial discrimination against aliens.

- Austria, CERD, A/54/18 (1999) 13 at paras. 30, 32 and 36.

Paragraph 30

The element of subjectivity in the rule that "decisions refusing an alien equal treatment may only be admissible if and when there is a reasonable justification" is of concern.

Paragraph 32

Concern is expressed over the lack of protective measures for "national ethnic minorities", in particular Czechs, Slovaks and Roma, as well as for those who are sometimes referred to as "new minorities". Concern is also expressed at the lack of legal protection for residents of foreign origin against discrimination committed by citizens.

Paragraph 36

The State party should introduce comprehensive legislation to prohibit racial discrimination in all its forms, covering both citizens and foreigners.

- Republic of Korea, CERD, A/54/18 (1999) 14 at para. 62.

It is recommended that further measures be taken to ensure that persons of foreign origin who were born or have settled in the State party are not subject to discrimination based on ethnic origin. The State party should take all appropriate measures, including awareness-raising campaigns, to protect women married to asylum seekers and children of mixed marriages, particularly Amerasian children, from racial discrimination or racial prejudice.

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- Finland, CERD, A/54/18 (1999) 16 at para. 71.

The recent legislation ensuring enjoyment by immigrant children of their right to education, as well as the measures taken to facilitate education of immigrants in their own language, are welcomed.

- Portugal, CERD, A/54/18 (1999) 17 at para. 96.

Concern is expressed at the manifestations of xenophobia and racial discrimination, including acts of violence directed against certain ethnic groups, particularly Blacks, Roma (Gypsies), immigrants and foreigners frequently perpetrated by skinheads.

- Italy, CERD, A/54/18 (1999) 19 at paras. 128 and 129.

Paragraph 128

Concern is expressed about the apparent lack of appropriate training for law enforcement officials and other public officials regarding the provisions of the Convention in connection with acts of violence and ill-treatment against foreigners and members of minorities in detention.

Paragraph 129

The State party should strengthen its efforts towards preventing and prosecuting incidents of racial intolerance and discrimination against foreigners and Roma people, as well as ill-treatment of foreigners and Roma in detention.

- Syrian Arab Republic, CERD, A/54/18 (1999) 22 at paras. 175, 176 and 181.

Paragraph 175

The stateless status of a large number of persons of Kurdish origin, who are alleged to have entered the Syrian Arab Republic from neighbouring countries from 1972 to 1995 and who are said to number 75,000, is of concern.

Paragraph 176

Concern is expressed over Syrian-born Kurds, who are considered either as foreigners or as maktoumeen (unregistered) by the Syrian authorities and who face administrative and practical difficulties in acquiring Syrian nationality, although they have no other nationality by birth.

Paragraph 181

The State party should undertake preventive measures, such as training programmes for law

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enforcement officials and security authorities, with a view to preventing human rights violations such as arbitrary arrests, detention, and disappearances of stateless refugees and foreigners.

- Costa Rica, CERD, A/54/18 (1999) 24 at paras. 193 and 203.

Paragraph 193

Recent manifestations of xenophobia and racial discrimination, largely focused on immigrants, in particular Nicaraguans, are of concern. Concern is expressed about the vulnerable status of refugees and clandestine immigrants, who often live and work in the country in precarious conditions, and who frequently become victims of discrimination in the terms of article 5 of the Convention, in particular paragraph 5 (e).

Paragraph 203

The State party should make additional efforts to facilitate equal access to the courts and administrative bodies, in particular for the indigenous population, the black minority, refugees and immigrants, in order to ensure equality for all persons.

- Dominican Republic, CERD, A/54/18 (1999) 47 at para. 514.

The State party should take urgent measures to ensure the enjoyment by persons of Haitian origin of their economic, social and cultural rights without discrimination. Efforts should be made, in particular, to improve their living conditions in the *bateyes* (shanty towns).

- Denmark, CERD, A/55/18 (2000) 22 at para. 63.

It is noted that the new Act on Integration of Aliens transfers the responsibility for integration from the central to the local authorities. It is recommended that the State party closely monitor the implementation of the new Act with a view to ensuring that the geographical distribution of aliens within the State party is made according to the principle of equity and does not lead to violation of their rights recognized under the Convention.

- Estonia, CERD, A/55/18 (2000) 24 at para. 79.

The fact that the definition of national minorities only applies to Estonian citizens is of concern. In light of the significant number of non-nationals and stateless persons residing in the territory of the State party, such a restrictive and narrow definition may limit the scope of the State Programme on Integration.

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- France, CERD, A/55/18 (2000) 26 at para. 97.

Concern is expressed about possible discrimination in effect in the implementation of laws providing for the removal of foreigners from French territory, including persons in possession of valid visas, and the delegation of responsibilities which should be exercised by State officials.

- Lesotho, CERD, A/55/18 (2000) 28 at para. 112.

Concern is expressed about the recent incidents of tension between Lesotho nationals and Asian and South African white factory owners which resulted in kidnapping, violence and the flight of about 100 Asian nationals from the country for fear of persecution. It is recommended that the State party take measures to resolve the underlying socio-economic causes of these events. In this context, the attention of the State party is drawn to General Recommendation XI on non-citizens and the obligation to report fully upon legislation concerning foreigners and its implementation.

- Spain, CERD, A/55/18 (2000) 34 at paras. 164 and 167.

Paragraph 164

It is noted with concern that remarkably few cases before national courts have been identified as incidents of racial discrimination, despite a recognized general increase in juvenile violence, including attacks on foreigners by extremist groups, neo-Nazi movements and gangs. It is also noted that violence against certain foreigners often results in judicial proceedings alleging assault, unlawful detention and property damage, and that the racial aspect of such acts is not taken into consideration.

Paragraph 167

With reference to article 5 (e) of the Convention, concern is expressed about reports indicating the prevailing discrimination against persons of foreign origin, particularly in the field of employment. The Committee wishes to receive further information on measures taken by the State party to ensure the practical enjoyment by persons belonging to ethnic or national minorities of the rights to work and to equal opportunities for promotion and career development, to education and to housing.

- Tonga, CERD, A/55/18 (2000) 37 at para. 182.

Particular concern is expressed at section 10 (2) (c) of the Immigration Act of the Laws of Tonga, according to which the right to marriage between a Tongan and a non-Tongan is conditioned by the written consent of the Principal Immigration Officer. Such legislation might constitute a breach of article 5, paragraph (d) of the Convention.

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- Zimbabwe, CERD, A/55/18 (2000) 38 at para. 199.

It is noted with dissatisfaction that the laws concerning citizenship give preference to non-national female spouses over non-national male spouses of nationals of Zimbabwe and that the children born to citizens of Zimbabwe overseas may not acquire citizenship. It is recommended that the State party review its citizenship laws to ensure non-discrimination.

- Finland, CERD, A/55/18 (2000) 41 at paras. 216, 217 and 219.

Paragraph 216

With respect to racially motivated crimes, it is of concern that police do not always intervene, that their action is not always appropriate and that prosecutors hesitate to initiate criminal proceedings. It is noted that according to a 1999 study on attitudes of public authorities towards immigrants, police and frontier guards have the most negative attitudes. The continuation and strengthening of training programmes for police and all law enforcement officials and the improvement of communication between officials and immigrants in order to enhance mutual confidence is recommended. In cases where police officers are personally involved in racially motivated acts, it is recommended that an independent body investigate. Judges and prosecutors are invited to be more active and firm in prosecuting these cases.

Paragraph 217

It is noted with concern that immigrants, refugees and minorities, in particular Roma, have higher rates of unemployment, have difficulties in gaining access to housing and social services and have higher rates of school drop-out. The low number of judicial proceedings initiated related to incidents of racial discrimination, including cases of discrimination in employment, is also of concern. The State party should take all necessary measures to alleviate the situation of immigrants, refugees and minorities, in particular Roma, at the national and municipal levels, especially with respect to housing, employment and education.

Paragraph 219

The increasing number of racist acts is of concern. It is noted with concern that a significant percentage of Finns declare themselves to be racist or partially racist and are opposed to the practice of Islam by immigrants (refugees). It is also noted that the media often present immigrants and minorities, in particular Roma, in a negative light. The State party is invited to strengthen measures to promote tolerance and combat prejudices, particularly in the field of teaching, education, culture and information. The State party should find adequate modalities to make journalists and people working in the media sector more aware of racial discrimination.

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- Argentina, CERD, A/56/18 (2001) 18 at paras. 53 and 54.

Paragraph 53

The existence of xenophobic attitudes towards immigrants primarily from neighbouring countries, asylum-seekers and persons of African descent is of concern. These attitudes, which are manifested even in some of the media, seem to have increased as a result of the present economic crisis and have given rise, on occasion, to violent incidents. The State party should monitor such attitudes and incidents closely and take appropriate steps to deal with them.

Paragraph 54

The difficulties faced by immigrants, primarily those from neighbouring countries, in meeting the cost of obtaining residence papers and the lengthy and excessively bureaucratic immigration procedures are noted with concern. It is recommended that the State party take steps to deal with this, *inter alia*, by offering advice free of charge. In particular, the immigration bill currently under discussion should include provisions to deal with these problems.

- 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.

- Iceland, CERD, A/56/18 (2001) 32 at paras. 145, 154 and 155.

Paragraph 145

The State party's positive efforts with regard to the prevention of ethnic discrimination is noted with appreciation. The efforts to ensure equal rights and protection from discrimination for the growing immigrant and foreign-born population are also noted.

Paragraph 154

It is noted that few incidents of racial discrimination are recorded by the police. The State party should carefully review allegations of racial insults and threats suffered by immigrants and consider additional ways in which the formulation of formal complaints in such cases could be encouraged, including publicizing the State party's declaration under article 14 of the Convention.

Paragraph 155

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While acknowledging the more favourable treatment received under the naturalization laws in cases where the applicant is stateless, it is noted that Icelandic nationality is lost by persons who acquire another nationality by their own application, while dual citizenship is allowed for foreign nationals who acquire Icelandic citizenship. The State party should consider the possibility of acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which prohibit deprivation of nationality on discriminatory grounds and stipulate that a State party should grant nationality to persons born in its territory who would otherwise be stateless.

- Japan, CERD, A/56/18 (2001) 34 at para. 176.

Although there are no longer any administrative or legal requirements for Koreans applying for Japanese nationality to change their names to a Japanese name, concern is expressed about reports that authorities continue to urge applicants to make such changes and that Koreans feel obliged to do so for fear of discrimination. Considering that the name of an individual is a fundamental aspect of cultural and ethnic identity, it is recommended that the State party take the necessary measures to prevent such practices.

- Cyprus, CERD, A/56/18 (2001) 48 at paras. 263, 267 and 271.

Paragraph 263

Satisfaction is expressed at the amendment of the 1967 Citizenship Law which eradicates discrimination in marriage to foreigners. Through this amendment, the right of an alien spouse to acquire the citizenship of the Cypriot spouse is now recognized for both spouses, as is the equal right of both spouses to transmit citizenship to their children.

Paragraph 267

The authorities should continue to closely monitor incidents of police violence against aliens entering Cyprus illegally and take appropriate steps to deal with the incidents.

Paragraph 271

The absence of a comprehensive immigration policy aimed at regulating the entry and stay of immigrants, as well as their employment rights, is a matter of concern.

- Egypt, CERD, A/56/18 (2001) 50 at para. 288.

Concern is expressed at the nationality law, which prevents an Egyptian mother married to a foreigner from passing on her nationality to her children. It is also of concern that children born to Egyptian

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mothers and foreign fathers are faced with discrimination in the field of education. The promise of the State party to revise the nationality law, which discriminates against children born to Egyptian women married to non-nationals, so as to bring it into line with the provisions of the Convention, is noted.

- Italy, CERD, A/56/18 (2001) 53 at paras. 303, 306, 308, 310, 315 and 316.

Paragraph 303

The establishment of cultural mediators, who are expected to contribute to a constructive and successful dialogue with foreigners present in the country and between individuals of different communities, is welcomed. It is also noted with satisfaction that these cultural mediators, currently 75 in number, are properly trained and are mostly recruited among persons of foreign origin.

Paragraph 306

The fact that the State party's legislation provides for the right to education for all minors, irrespective of the existence of a valid residence permit, is welcomed.

Paragraph 308

Foreigners residing regularly in the State party's territory account for 2.2 per cent of its total population. In view of the difficulties resulting from its particular geographical location and the specific shape of its territory which lead to a high influx of illegal immigrants, it is recommended that the State party take active measures to promote racial tolerance among all individuals and especially among law enforcement authorities.

Paragraph 310

The State party should ensure that the local authorities take more resolute action to prevent and punish racially motivated acts of violence against Roma and other persons of foreign origin.

Paragraph 315

The increase in the percentage of foreigners accused of crimes (from 4.2 per cent in 1991 to 9.8 per cent in 1997) is largely due to foreigners staying illegally in Italy (84.95 per cent of the persons denounced and 88.77 per cent of the persons arrested). As this development can have an important effect on tolerance and peaceful coexistence between Italian citizens and foreigners, as acknowledged by the State party, the State party is encouraged to stress that there is no correlation between the increase of criminality and the presence of migrants and other foreigners staying legally in the country.

Paragraph 316

The State party should intensify its efforts and its cooperation with other countries, including the countries of origin, in order to reduce illegal immigration, criminal trafficking and commercial exploitation of human beings. Noting that foreign employees regularly resident in the territory are

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guaranteed equality of treatment with Italian employees while irregular workers, who make up 30 per cent of the entire non-European Union labour force (and even up to 50 per cent in northern Italy), are subjected to different forms of exploitation, the State party should take all necessary measures to put an end to those illegal practices.

- Sri Lanka, CERD, A/56/18 (2001) 56 at para. 334.

The fact that a large number of Tamils of Indian origin, particularly plantation workers, and their descendants have still not been granted citizenship and that many of them even continue to be stateless is of concern. Tamils without Sri Lankan citizenship are allegedly discriminated against and do not fully enjoy their economic, social and cultural rights. It is recommended that early and effective measures be taken to solve this problem and these persons should not be threatened with repatriation.

- United States of America, CERD, A/56/18 (2001) 64 at para. 394.

The incidents of police violence and brutality are noted with concern, which include cases of deaths as a result of excessive use of force by law enforcement officials, particularly affecting minority groups and foreigners. The State party should take immediate and effective measures to ensure the appropriate training of the police force with a view to combatting prejudices which may lead to racial discrimination and ultimately to a violation of the right to security of persons. Firm action should also be taken to punish racially motivated violence and ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation for any damage suffered as a result of such actions.

ICCPR

- Belgium, ICCPR, A/47/40 (1992) 94 at para. 429.

The difference between civil rights enjoyed by citizens and those enjoyed by aliens, which may lead to discrimination against aliens, is of concern.

- Venezuela, ICCPR, A/48/40 vol. I (1993) 61 at para. 309.

Concern is expressed over the application of article 35 of the Aliens Act, which does not provide for any possibility of appeal, and over conditions of detention in places of imprisonment.

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- Hungary, ICCPR, A/48/40 vol. I (1993) 128 at paras. 662-664.

Paragraph 662

The use of excessive force by the police, especially against foreigners residing in Hungary and asylum-seekers held in detention is of concern.

Paragraph 663

The provisions allowing for the expulsion of aliens from Hungary and the extent of discretion in immigration law are of concern.

Paragraph 664

The persistent pattern of prejudice and discriminatory attitudes towards certain minorities including, in particular, the Roma (gypsies), as well as the occurrence of some incidents arising from hostility and xenophobia towards aliens is of concern.

- Norway, ICCPR, A/49/40 vol. I (1994) 21 at para. 92.

Concern is expressed over the vagueness of the criterion of "compelling social considerations", under which a foreign national's right to choose his or her place of residence may be restricted, and its conformity with article 12 of the Covenant.

- Japan, ICCPR, A/49/40 vol. I (1994) 23 at para. 106.

The continued existence in Japan of certain discriminatory practices against social groups, such as Korean permanent residents, members of the Buraku communities, and persons belonging to the Ainu minority is of concern. That it is a penal offence for alien permanent residents not to carry documentation at all times, while this does not apply to Japanese nationals, is not consistent with the Covenant. Moreover, persons of Korean and Taiwanese origin who serve in the Japanese Army and who no longer possess Japanese nationality are discriminated against in respect of their pensions.

- Slovenia, ICCPR, A/49/40 vol. I (1994) 56 at para. 345.

It is noted that the State party singles out Italians and Hungarians for special protection as minorities, including the right to political representation. Gypsies are also granted certain special protection as a minority. While this protection is welcome, all minorities are entitled to protection of their rights under article 27. Immigrant communities constituting minorities under the meaning of article 27 are entitled to the benefit of that article.

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- United States of America, ICCPR, A/50/40 vol. I (1995) 52 at paras. 283 and 298.

Paragraph 283

It is of concern that excludable aliens are dealt with by lower standards of due process than other aliens and, in particular, that those who cannot be deported or extradited may be held in detention indefinitely. The situation of a number of asylum-seekers and refugees is also a matter of concern.

Paragraph 298

Appropriate measures should be adopted as soon as possible to ensure to excludable aliens the same guarantees of due process as are available to other aliens and guidelines should be established which would place limits on the length of detention of persons who cannot be deported.

- Latvia, ICCPR, A/50/40 vol. I (1995) 62 at paras. 350 and 360.

Paragraph 350

It is of concern that a significant segment of the population will not enjoy Latvian citizenship owing to the stringent criteria established by the law and the policy deliberately chosen to consider each case on an individual basis and pursuant to a timetable calculated to delay the naturalization process for many years. The legislation still contains criteria of exclusion which give room to discrimination under articles 2 and 26 of the Covenant and raises difficulties under articles 13 and 17 of the Covenant.

Paragraph 360

All necessary measures should be taken to guarantee that the citizenship and naturalization legislation facilitate the full integration of all permanent residents of Latvia, with a view to ensuring compliance with the rights guaranteed under the Covenant, in particular with articles 2 and 26.

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/50/40 vol. I (1995) 72 at para. 422.

The treatment of illegal immigrants, asylum-seekers and those ordered to be deported gives cause for concern. It is observed that the incarceration of persons ordered to be deported and particularly the length of their detention, may not be necessary in every case. The incidences of the use of excessive force in the execution of deportation orders are of concern. It is also noted with concern that adequate legal representation is not available for asylum-seekers effectively to challenge administrative decisions.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICCPR, A/51/40 vol.

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I (1996) 13 at para. 63.

It is of concern that many Vietnamese asylum seekers are subject to long-term detention and that many are held under deplorable living conditions that raise serious questions under articles 9 and 10 of the Covenant. The situation of children living in camps, who are deprived of the enjoyment of rights under the Covenant in practice, given their parents' status as illegal immigrants, is alarming. The conditions under which deportations and removals of non-refugees of Vietnamese origin are carried out is also of concern.

- Sweden, ICCPR, A/51/40 vol. I (1996) 17 at paras. 87, 88 and 96.

Paragraph 87

The length of detention of illegal immigrants, asylum seekers and persons ordered to be expelled is a cause of concern.

Paragraph 88

The Board of Immigration and the Aliens Appeals Board may in certain cases yield their jurisdiction to the Government, resulting in decisions for expulsion or denial of immigration or asylum status without the affected individuals having been given an appropriate hearing. This practice may, in certain circumstances, raise questions under article 13 of the Covenant.

Paragraph 96

The State party should review its legislation governing asylum seekers and the expulsion of aliens in order to limit the possibility and extent of detention. The right to have a case reviewed by a competent authority should be available for all decisions of detention, expulsion and refusal of immigration or asylum.

- Estonia, ICCPR, A/51/40 vol. I (1996) 19 at paras. 120 and 121.

Paragraph 120

Concern is expressed at limitations to the exercise of freedom of association for long-term permanent residents in Estonia, particularly in the political sphere.

Paragraph 121

The definition of minorities in Estonian legislation, which only encompasses national minorities, thus restricting the application of the Law on Cultural Autonomy for Ethnic Minorities by excluding permanent residents from full participation in minority groups, is of concern.

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- Mauritius, ICCPR, A/51/40 vol. I (1996) 24 at para. 158.

All grounds on which discrimination is prohibited should be incorporated in the relevant non-discrimination provisions of the Constitution and the provisions should be extended to cover aliens.

- Denmark, ICCPR, A/52/40 vol. I (1997) 14 at para. 73.

Further consideration should be given and amendments should be made to the regulations, concerning residence and other conditions for reunification of families both of alien immigrants and refugees so as to give effect more fully to articles 23 and 24 of the Covenant.

- Switzerland, ICCPR, A/52/40 vol. I (1997) 19 at paras. 98, 100, 102, 111 and 113.

Paragraph 98

Concern is expressed at the numerous allegations of ill-treatment in the course of arrests or police custody, particularly in respect of foreign nationals or Swiss citizens of foreign origin. In conjunction with those allegations, reports on the failure of the authorities to follow up complaints of ill-treatment by the police and the disproportionate nature, if not absence, of penalties are also of concern. In this connection, it is noted that in the various cantons, independent machinery for recording and following up complaints of ill-treatment by the police does not seem to exist and that, on the contrary, complaints must in the first instance be addressed to the superior administrative authority. It is regretted that in various cantons, detainees may be held incommunicado for periods ranging from 8 to 30 days or even, in some cases, for indefinite periods. Also regretted is the non-existence in most cantons of legal guarantees, such as the possibility for a detainee to contact a lawyer immediately after his arrest and to be examined by an independent doctor at the commencement of police custody and before he appears before the examining magistrate. It is noted that it seems very difficult in practice for most persons who have been arrested to inform their family or friends as soon as they are arrested.

Paragraph 100

It is noted with concern that the Federal Act relating to coercive measures, which entered into force in January 1995, in some cases permits the administrative detention of foreign nationals without a temporary or permanent residence permit, including asylum seekers and minors over the age of 15, for three months while the decision on the right of temporary residence is being prepared, and for a further six months, and even one year with the agreement of the judicial authority, pending expulsion. These time limits are considerably in excess of what is necessary, particularly in the case of detention pending expulsion, and the time limit of 96 hours for the judicial review of the detention decision or the decision to extend detention is also excessive and discriminatory, particularly in light of the fact that in penal matters this review is guaranteed after 24 or 48 hours, depending on the canton concerned.

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Paragraph 102

The 1948 Decree of the Federal Council concerning political speeches by foreigners restricts the freedom of expression of foreigners who do not have a permanent residence permit in a manner contrary to article 19 of the Covenant.

Paragraph 111

The Act relating to coercive measures should be implemented in a restrictive manner and in the spirit of the Covenant, so as to ensure that the length of detention applicable under the Act is as short as possible and that the judicial review of the detention decision or the decision to extend detention is carried out in less than 96 hours. All possible measures should be taken to ensure that foreigners who are covered by that Act are informed in a language they understand of the remedies available to them and are assisted by counsel.

Paragraph 113

The Federal Decree of 24 February 1948 concerning political speeches by foreigners should be abrogated, or amended, so as to bring it into conformity with article 19 of the Covenant relating to freedom of expression.

- Gabon, ICCPR, A/52/40 vol. I (1997) 24 at paras. 132 and 142.

Paragraph 132

With regard to the rights of non-Gabonese citizens and refugees living in Gabon, the legal impediments to their freedom of movement within the country, as well as the requirement of an exit visa for foreign workers, which run counter to the provisions in article 12 of the Covenant are of concern. The appalling conditions prevailing in refugee centres, including the Libreville Detention Camp, which led to the death of a number of persons through suffocation and dehydration is of concern.

Paragraph 142

Existing provisions, such as article 1, paragraph 3, of the Constitution limiting or restricting the exercise of the right to freedom of movement for non-Gabonese citizens, including the requirement of exit visas, should be reviewed to bring the legislation fully into conformity with article 12 of the Covenant. The State party should consider adopting measures to improve the status and living conditions of refugees in refugee centres.

- Germany, ICCPR, A/52/40 vol. I (1997) 32 at paras. 181 and 183.

Paragraph 181

The ill-treatment of persons by the police, including foreigners and particularly members of ethnic

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minorities and asylum seekers, is of concern. In this regard, it is of concern that there is no truly independent mechanism for investigating complaints of ill-treatment by the police. The establishment of independent bodies throughout the territory of the State party for the investigation of complaints of ill-treatment by the police is recommended.

Paragraph 183

It is of concern that the definition of minorities as "ethnic or linguistic groups who have a traditional area of settlement in particular regions", is much too restrictive in terms of article 27 of the Covenant. Article 27 applies to all persons belonging to minorities, whether linguistic, religious, ethnic or otherwise, including those who are not concentrated or settled in a particular area or region, those who are immigrants or those who have been given asylum in Germany.

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

Concern is expressed over the number and serious nature of the allegations received regarding the ill-treatment by law enforcement officials towards 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. The reported increase in the number of suicides in detention centres is also of concern. Concern is also expressed 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 *gendarmierie nationale*, resulting in virtual impunity, and that 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, *inter alia*, 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.

- Lithuania, ICCPR, A/53/40 vol. I (1998) 30 at paras. 172, 174 and 178.

Paragraph 172

It is of concern that the right of foreign nationals to freedom of movement may be restricted on grounds not compatible with the Covenant and that restrictions on the right to leave Lithuania are imposed on persons who, because of their employment, may have information relating to State secrets. Furthermore, the restrictions imposed on the freedom of movement of asylum-seekers with temporary refugee status and that the failure to observe those restrictions may result in the rejection of the claim for asylum are of concern. Moreover, concern is expressed about the law that appears to protect against expulsion or deportation in cases where persons may be exposed to "persecution"

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but not where there is a threat to their right to life or of inhuman and degrading treatment or punishment. Therefore, provisions which restrict freedom of movement in a manner incompatible with article 12 of the Covenant should be repealed. 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.

Paragraph 174

The extensive powers exercised by immigration officers in respect of illegal immigrants in border areas are of concern. Therefore, the powers of entry and search exercised by immigration officers should be clearly defined and judicially controlled in order to ensure compliance with article 17 and other provisions of the Covenant.

Paragraph 178

It is noted that certain rights provided for in the Constitution of Lithuania are limited to citizens, although the delegation stated that, in practice, these rights are enjoyed by all persons. In this regard, the relevant legislation should be reviewed in order to ensure that there is no arbitrary discrimination against aliens, which is incompatible with the provisions of articles 2 (1) and 26 of the Covenant.

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at paras. 221 and 226.

Paragraph 221

The amendment to the Constitution, the effect of which is to deprive both women and men of the right to have their spouses registered as citizens, who as a consequence may not be allowed to reside in or enter the territory, is incompatible with articles 17 and 23 of the Covenant. Steps should therefore be taken to bring the law into compliance with the Covenant.

Paragraph 226

Legislation that subjects homosexuals to discrimination, e.g. that aliens deemed to be homosexuals may be defined as "Prohibited Persons" for immigration purposes and are subject to deportation, should be brought into conformity with the Covenant.

- Finland, ICCPR, A/53/40 vol. I (1998) 40 at paras. 256, 266 and 270.

Paragraph 256

Efforts to promote racial tolerance by the establishment of the Parliamentary Ombudsman, the Chancellor of Justice, the Ombudsman for Aliens, and the Advisory Board for Refugee and Migrant

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Affairs, as well as the implementation of a human rights curriculum in the schools are commended.

Paragraph 266

The increase in negative attitudes and *de facto* discrimination toward immigrants among some of the Finnish population and instances of violence is of serious concern. Further positive measures should be taken to overcome discriminatory and xenophobic attitudes and prejudice and to foster tolerance.

Paragraph 270

Separate areas should be established for asylum seekers and aliens with irregular status, currently held in public prisons and police detention places pending inquiry as to their status.

- Israel, ICCPR, A/53/40 vol. I (1998) 45 at paras. 312 and 322.

Paragraph 312

Women brought to Israel for purposes of prostitution, many under false pretences or through coercion, are not protected as victims of trafficking, but are likely to be penalized for their illegal presence in Israel by deportation. Such an approach to this problem effectively prevents these women from pursuing a remedy for the violation of their rights under article 8 of the Covenant. Serious efforts should be made to seek out and punish the traffickers, to institute rehabilitation programmes for the victims and to ensure that they are able to pursue legal remedies against the perpetrators.

Paragraph 322

Authorities appear to be placing obstacles in the way of family reunion in the case of marriage between an Israeli citizen and a non-citizen who is not Jewish (and therefore not entitled to enter under the Law of Return). These obstacles, which include long waiting periods for entry permits, a "probation" period of over five years' residence to establish that the marriage is genuine and a further waiting period for citizenship, are applied even more rigorously in the case of Arab citizens, particularly those who marry persons resident in the occupied territories. Such obstacles are incompatible with articles 17 and 23. The Government should reconsider its policies with a view to facilitating family reunion for all citizens and permanent residents.

- Italy, ICCPR, A/53/40 vol. I (1998) 50 at para. 335.

The recent changes in legislation concerning controls applied to illegal immigrants, which improve their rights while awaiting a decision on admission and the possibility of family reunion in the case of admission, and which bring the guarantees for such persons before they may be deported more into line with article 13, are appreciated.

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- Belgium, ICCPR, A/54/40 vol. I (1999) 26 at paras. 73 and 94.

Paragraph 73

The Committee notes with satisfaction that children of illegal immigrants are entitled to education and medical care.

Paragraph 94

Provisions relating to fake marriages and to the expulsion of aliens may give insufficient protection to the right to marry and family life as recognized in articles 17 and 23 of the Covenant.

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at paras. 159-161.

Paragraph 159

The Alien Registration Law, which makes it a penal offence for alien permanent residents not to carry certificates of registration at all times and imposes criminal sanctions, is incompatible with article 26 of the Covenant and should be abolished.

Paragraph 160

Article 26 of the Immigration Control and Refugee Recognition Act provides that only those foreigners who leave the country with a permit to re-enter are allowed to return to Japan without losing their residence status and that the granting of such permits is entirely within the discretion of the Minister of Justice. Under this law, foreigners who are second- or third-generation permanent residents in Japan and whose life activities are based in Japan may be deprived of their right to leave and re-enter the country. This provision is incompatible with article 12, paragraphs 2 and 4, of the Covenant. The words "one's own country" are not synonymous with "country of one's own nationality". The State party is urged to remove from the law the necessity of obtaining a permit to re-enter prior to departure, in respect of permanent residents like persons of Korean origin born in Japan.

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.

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

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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).

- Canada, ICCPR, A/54/40 vol. I (1999) 48 at paras. 235 and 237.

Paragraph 235

Compelling security interests may not 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.

Paragraph 237

In all cases of expulsion of long-term alien residents, full consideration should be given to the protection of all Covenant rights, in particular under articles 23 and 24.

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

In order to secure compliance with articles 6 and 7 in deportation cases, deportation procedures must provide effective protection against the risk of imposition of the death penalty or of torture or inhuman, cruel or degrading treatment.

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at para. 450.

The State party should repeal or reform discriminatory aspects of legislation requiring the registration of alien husbands of Irish women citizens, which is not required of alien wives of Irish male citizens (arts. 3, 26).

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 477, 479, 480, 483, 484 and 486.

Paragraph 477

The treatment of the Bedoons (included in the category of stateless persons) in Kuwait, who number

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several thousand, is of grave concern. In view of the fact that many of these people are born in Kuwait or have been living in Kuwaiti territory for decades, and some are in the service of the Government, the sweeping statement of the delegation characterizing the Bedoons generally as "illegal residents" is of grave concern. That many Bedoons long resident in Kuwait who left the country during the Iraqi occupation in 1990/91 are not permitted to return to Kuwait is of concern.

Paragraph 479

Allegations that Bedoons have been offered a five-year residence permit in exchange for renouncing any claims for naturalization and that the State party seeks to deport Bedoons to countries with which the person concerned has no effective links were not refuted and are of concern.

Paragraph 480

The State party should confer its nationality on a non-discriminatory basis and ensure that those who are granted Kuwaiti nationality are treated equally with other Kuwaiti citizens with regard to voting rights (arts. 25, 26). The State party is urged to refrain from deporting residents on the basis of their classification as Bedoons who have failed to regularize their status.

Paragraph 483

The naturalization of Muslim applicants exclusively is of concern.

Paragraph 484

The laws on naturalization and nationality should be amended to ensure that their application does not entail discrimination on any of the grounds enumerated in article 26 of the Covenant.

Paragraph 486

The State party should ensure that all the rights protected under the Covenant are respected *vis-à-vis* persons awaiting deportation, in particular articles 9, 10, 12 and 13.

- Australia, ICCPR, A/55/40 vol. I (2000) 71 at paras. 426 and 427.

Paragraph 426

The mandatory detention under the Migration Act of "unlawful non-citizens", including asylum-seekers, raises questions of compliance with article 9, paragraph 1, of the Covenant, which provides that no person shall be subjected to arbitrary detention. The State party's policy, in this context of mandatory detention, of not informing the detainees of their right to seek legal advice and of not allowing access of non-governmental human rights organizations to the detainees in order to inform them of this right, is of concern.

Paragraph 427

The State party is urged to reconsider its policy of mandatory detention of "unlawful non-citizens"

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with a view to instituting alternative mechanisms of maintaining an orderly immigration process. It is recommended that the State party inform all detainees of their legal rights, including their right to seek legal counsel.

- Denmark, ICCPR, A/56/40 vol. I (2001) 34 at para. 73(16).

It is noted that under the Aliens Act, Immigration Authorities may require DNA testing of an applicant and the persons with whom the applicant claims family ties on which a residence permit is to be based. DNA testing may have important implications for the right of privacy under article 17 of the Covenant. Denmark should ensure that such testing is used only when necessary and appropriate to the determination of the family tie on which a residence permit is based (art. 23).

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at para. 75(18).

The exploitation of children, including foreign children, is of concern. The State party must take all necessary steps to ensure that children enjoy special protection, in accordance with its obligations under article 24 of the Covenant.

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at paras. 78(3), 78(16) and 78(18).

Paragraph 78(3)

It is noted that the new Constitution omits clauses which were incompatible with the Covenant, for example the penalty of internal exile and reciprocity for protection of the human rights of aliens.

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 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(18)

The abuse of the legal notion of "transient aliens" is of concern. According to information in the Committee's possession, such persons may be born in the Dominican Republic to parents who were

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also born there but are still not considered to be nationals of the Dominican Republic. The State party should regulate the situation of everyone living in the country and grant the rights recognized by article 12 of the Covenant.

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at para. 80(8).

While the amendment to article 14 of the Constitution that extended equality to non-citizens is welcomed, other provisions continue to restrict certain rights to 'citizens', leaving uncertain the question whether such rights are guaranteed to all individuals in the territory of the State party and subject to its jurisdiction, as required under article 2, paragraph 1, of the Covenant. The State party should adopt necessary measures to clarify this situation.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at paras. 81(22) and 81(27).

Paragraph 81(22)

The discretionary power of the Minister of the Interior to order the expulsion of any alien, without safeguards, if security and the public interest so require, poses problems with regard to article 13 of the Covenant, particularly if the alien entered Syrian territory lawfully and has obtained a residence permit. Protests lodged by the expelled alien with Syrian diplomatic and consular missions abroad are not a satisfactory solution in terms of the Covenant. Before expelling an alien, the State party should provide him or her with sufficient safeguards and an effective remedy, in conformity with article 13 of the Covenant.

Paragraph 81(27)

The situation of a large number of persons of Kurdish origin who have entered Syria from neighbouring countries is of concern. The fate of Kurds born in Syria whom the Syrian authorities treat either as aliens or unregistered persons and who encounter administrative and practical difficulties in acquiring Syrian nationality is also of concern. This discriminatory situation is incompatible with articles 24, 26 and 27 of the Covenant. Urgent steps should be taken to find a solution to the statelessness of numerous Kurds in Syria and to allow Kurdish children born in Syria to acquire Syrian nationality.

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

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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.

- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at para. 83(15).

Deep concern is expressed about the persistent allegations of police harassment, particularly of the Roma minority and aliens, which the delegation explained as resulting from lack of sensitivity rather than harassment (arts. 2, 7, 9, 26). The State party should take firm measures to eradicate all forms of police harassment of aliens and vulnerable minorities.

- Monaco, ICCPR, A/56/40 vol. I (2001) 89 at para. 84(16).

Concern is expressed that no justification is given for the administrative measures relating to the expulsion of foreigners (article 13). The State party should assume the obligation of justifying administrative decisions, particularly those relating to expulsions.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at paras. 86(20) and 86(21).

Paragraph 86(20)

The requirement under the Immigration Law of administrative permission to travel abroad, and the requirement for foreigners to obtain exit visas to leave the country are incompatible with the provisions of article 12, paragraph 2 of the Covenant. The State party should eliminate the requirement of administrative permission and exit visa as a general rule and require them only in individual cases that can be justified in the light of the Covenant.

Paragraph 86(21)

It is regretted that there is no law or formal procedure governing the expulsion of aliens from the State party's territory. Before expelling an alien, the State party should provide him or her with sufficient safeguards and an effective remedy, in conformity with article 13 of the Covenant. The State party is urged to consider the adoption of legislation governing the expulsion of aliens, which should be consistent with the principle of *non-refoulement*.

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- Austria, ICESCR, E/1995/22 (1994) 50 at paras. 253 and 259.

Paragraph 253

Concern is expressed over the possible adverse consequences for the implementation of the provisions of the Covenant concerning non-discrimination, over the regulations relating to the new law on residence and residence permits, whose purpose is to limit the number of foreigners authorized to work in Austria, and over the conditions laid down - particularly in the area of housing - for the acquisition of an Austrian residence permit.

Paragraph 259

The Austrian Government should take the necessary measures to ensure that the implementation of the new immigration and residence laws will not impede the exercise, by non-nationals, of the rights set out in the Covenant.

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1995/22 (1994) 52 at paras. 289-292, 299 and 301.

Paragraph 289

The problem of split families in Hong Kong, especially where it concerns spouses who are forced to live apart from each other and children who are separated from parents and siblings, is of concern. This situation is the result of Hong Kong's present immigration law. The separation of families is inconsistent with the obligations under article 10 of the Covenant.

Paragraph 290

It is also of concern that in the case of Hai Ho-Tak, conflicting explanations were received about the reasons for the separation of the child from his parents and as to which authorities were in a position to resolve the problem. These explanations are unconvincing. It is of concern that undue broad bureaucratic reasons have been used as a justification for a measure which is not compatible with the rights recognized in article 10. The suggestion that the child's parents should apply for a one-way permit would not appear to be an adequate solution, given the very lengthy delay that would result. The Government should reconsider its response to this case. It is also noted that no compelling reason has been offered by the Government for its refusal to provide a statutory right of appeal in immigration cases which involve exceptional circumstances of a humanitarian nature and this principle should also be reconsidered.

Paragraph 291

The information received regarding the treatment of Vietnamese asylum-seekers in Hong Kong is of deep concern. Of particular concern is the situation of the children. The statements made by the Government that these children have no entitlement to the enjoyment of the right to education or to other rights in view of their status as "illegal immigrants" is alarming.

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Paragraph 292

Concern is expressed over the legal and social position of foreign employees known as domestic helpers in Hong Kong. It is considered that these workers' economic, social and cultural rights are seriously impaired by the so-called two-week rule which provides that a worker may neither seek employment nor stay more than two weeks in Hong Kong after the expiration of original employment; by the fact that maximum working hours are not set; and by the discriminatory practice of not being allowed to bring their families to Hong Kong, while professional migrant workers from developed countries are allowed to do so.

Paragraph 299

The existing immigration policy of Hong Kong should be reviewed with a view to amending the provisions which result in split families.

Paragraph 301

The two-week rule should be repealed and a review of the employment conditions of foreign domestic helpers should be undertaken to provide the full enjoyment of their rights under the Covenant.

- Republic of Korea, ICESCR, E/1996/22 (1995) 24 at para. 85.

The State party is urged to swiftly expand the social welfare system to meet the needs of those on the margins of society, including foreign workers. The protection of foreign workers needs, in its turn, particular attention, especially considering their social isolation and vulnerability. Particular attention is drawn to the very poor, the homeless and victims of severe mental or physical illness.

- Sweden, ICESCR, E/1996/22 (1995) 35 at para. 145.

The Government is encouraged to continue taking adequate measures to ensure that the reduction of its social welfare programmes does not result in a violation of the State party's obligations under the Covenant. In this connection, particular attention should be paid to fighting unemployment and to ensuring the same degree of welfare for all segments of society, as well as to speeding up the social integration of immigrants.

- Ukraine, ICESCR, E/1996/22 (1995) 50 at paras. 262 and 266.

Paragraph 262

Attention is drawn to the difficulties experienced by members of minority groups, including the Crimean Tatars, who were deported decades ago and are now returning to resettle on the land of their

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ancestors. The failure to resolve the question of citizenship for the Crimean Tatars is not in conformity with the State party's obligations under the Covenant. In particular, concern is expressed that the exclusion of such persons from certain social indicators, such as those on employment and poverty, may deprive them of the full enjoyment of their economic, social and cultural rights. In this connection, the provisions of article 2 of the Covenant are recalled, which states that the rights enunciated in the Covenant must be exercised without discrimination of any kind as to, *inter alia*, national or social origin.

Paragraph 266

It is noted with concern that social services are not adequate to ensure a minimum standard of living for the most vulnerable groups, including pensioners, unemployed persons, persons with disabilities and non-citizens.

- Spain, ICESCR, E/1997/22 (1996) 27 at paras. 104 and 111.

Paragraph 104

The growth in the number of acts of discrimination and racism against foreigners in Spain, particularly directed at groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population, is noted with great concern.

Paragraph 111

All appropriate preventive and penal measures should be taken to combat effectively all forms of racial discrimination, which particularly affects groups from North Africa, asylum seekers, illegal workers and the Romany (Gypsy) population.

- Guatemala, ICESCR, E/1997/22 (1996) 29 at para. 133.

The general situation faced by internally and externally displaced persons remains a serious cause of concern.

- Dominican Republic, ICESCR, E/1997/22 (1996) 44 at para. 225.

Note is taken of information from various sources concerning the arbitrary confiscation of identity cards and the illegal deportation during the 1995-1996 presidential campaign of persons of Haitian origin born in the Dominican Republic. This information stresses the insecurity prevailing with regard to nationality of Dominican citizens of Haitian origin. It thus appears necessary to adopt clear legislation on nationality, which would provide legal security to persons of Haitian origin born in the Dominican Republic and to their children; require the authorities to register births without

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discrimination; and allow Haitians to obtain Dominican nationality through naturalization under the same conditions as other foreigners.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICESCR, E/1997/22 (1996) 58 at paras. 347, 352, 362 and 365.

Paragraph 347

The growing number of split families in Hong Kong is of deep concern. The Government has an obligation to ensure that the criteria applied in deciding on those eligible for legal migration into Hong Kong are consistent with the provisions of the Covenant.

Paragraph 352

It is noted with concern that, while the Hong Kong Government has adopted an educational policy in relation to children of immigrant families from China, it has not made sufficient efforts to ensure school placements for these children and to protect them from discrimination.

Paragraph 362

The Hong Kong Government should review the seven-year residence rule applied before providing housing to immigrant families from China, with a view to ensuring their right to adequate housing.

Paragraph 365

Measures to integrate children of immigrant families from China into the general education system should be implemented with maximum possible attention from government authorities.

- Libyan Arab Jamahiriya, ICESCR, E/1998/22 (1997) 38 at para. 192.

Foreign workers who are employed in the State party with valid work permits should not be deported if they become HIV-positive while in the country. The State party should not treat the HIV/AIDS problem as one essentially relating to foreigners and it should take energetic steps by way of a publicity campaign in the media to inform its population of the nature of the disease, its modes of transmission and what steps can be taken to avoid contracting it.

- Dominican Republic, ICESCR, E/1998/22 (1997) 43 at para. 233.

The State party is urged to take all necessary measures to ensure that Haitian illegal immigrants enjoy their economic, social and cultural rights fully and without discrimination. The regularization of the situation of these illegal residents, through the delivery of residence permits or naturalization, is necessary. Furthermore, the principle of *jus soli* under article 11 of the Constitution should be applied

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to the children of Haitian residents without delay.

- Iraq, ICESCR, E/1998/22 (1997) 50 at para. 261.

Concern is expressed that the payment of benefits abroad to a citizen of another country is ensured only if he returns to his country of origin at the end of his insured period of service. This precludes workers who leave the State party before their contract period has expired or who settle in a country other than their country of origin from receiving their benefits. Furthermore, payment of benefits is made outside the State party only under reciprocity agreements or international labour conventions, and is subject to authorization. It is noted with concern that due to the current situation in the State party all such payments have been suspended.

- The Netherlands, ICESCR, E/1999/22 (1998) 37 at paras. 179 and 189.

Paragraph 179

Racial discrimination can be seen to exist in labour matters, contributing to some extent to unemployment among immigrants.

Paragraph 189

The Government should continue its endeavours to root out racial discrimination in the labour market with a view to facilitating the integration of immigrants and their families into the national life.

- Switzerland, ICESCR, E/1999/22 (1998) 59 at para. 371.

The State party should play a more active role in promoting equal access to higher education for women, immigrants and ethnic minorities.

- Denmark, ICESCR, E/2000/22 (1999) 29 at paras. 107 and 115.

Paragraph 107

The high level of unemployment is of concern, especially among young people, foreign nationals, immigrants and refugees.

Paragraph 115

The State party should take all corrective measures to reduce the level of unemployment of young

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people, foreign nationals, immigrants and refugees.

- Jordan, ICESCR, E/2001/22 (2000) 49 at para. 234.

Concern is expressed about discriminatory treatment under the civil law, such as restrictions on the right of Jordanian women married to foreign men to pass on their nationality to their children.

- Australia, ICESCR, E/2001/22 (2000) 66 at para. 397.

The State party is called upon to ensure that the two-year waiting period for the receipt of social security assistance by new immigrants does not infringe upon their right to an adequate standard of living.

- Portugal, ICESCR, E/2001/22 (2000) 70 at paras. 413 and 420.

Paragraph 413

Concern is expressed about cases of intolerance and discrimination with regard to Roma people, refugees and immigrants. It is noted with concern that foreign workers cannot enrol in the vocational guidance and training courses to which Portuguese workers are entitled.

Paragraph 420

The State party is urged to intensify its efforts to create a culture of tolerance and to eliminate all forms of discrimination, in so far as they affect women, Roma, asylum seekers and immigrants.

- Finland, ICESCR, E/2001/22 (2000) 73 at para. 440.

It is regretted that despite the many initiatives taken by the State party to combat racial discrimination, racist attitudes prevail among the population, perpetuating discrimination against minorities and foreigners, especially in employment.

- Hong Kong Special Administrative Region (China), ICESCR, E/2002/22 (2001) 39 at paras. 184, 202 and 203.

Paragraph 184

There is deep concern about the hardship arising from policies on permanent residence and split families.

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Paragraph 202

When formulating and implementing its policies on permanent residence and split families, the most careful attention should be given to all the human rights dimensions of the issue, including articles 2 (2), 3 and 10 of the Covenant. The authorities are reminded that any limitations in connection with article 10 must be justified in relation to each element set out in article 4.

Paragraph 203

The transparency of all relevant processes concerning permanent residence and split families should be enhanced. For example, it is recommended that all data, appropriately disaggregated (e.g. by origin of applicant), be made publicly available and tabled in the Legislative Council every six months.

- Senegal, ICESCR, E/2002/22 (2001) 61 at paras. 359 and 380.

Paragraph 359

It is of concern that asylum-seekers are denied access to basic social services while waiting for a decision on their status, which takes a long time. There is also concern that children of asylum-seekers who have not yet been granted refugee status cannot enrol in school unless they are able to pay tuition fees.

Paragraph 380

The State party is urged to expedite the consideration of the applications of asylum-seekers and to provide them with basic social services, including hospital care and free education for their children.

- Germany, ICESCR, E/2002/22 (2001) 97 at paras. 658, 667 and 676.

Paragraph 658

There is concern about the considerable length of time taken to process applications for asylum, resulting in the limitation of the enjoyment of the economic, social and cultural rights enshrined in the Covenant by asylum-seekers and their dependents.

Paragraph 667

It is of concern that the victims of trafficking in persons, and in particular women, are doubly victimized, owing to a lack of sensitization of police, judges and public prosecutors, a lack of appropriate care for victims, and the risks and dangers awaiting them upon deportation to their home countries.

Paragraph 676

Applications for asylum should be addressed more expeditiously in order to avoid limiting applicants'

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enjoyment of their economic, social and cultural rights.

CEDAW

- Finland, CEDAW, A/50/38 (1995) 71 at para. 395.

Attention should be paid to issues of violence against women, sexual, domestic and otherwise, with particular sensitivity to the vulnerability of foreign and minority women.

- Denmark, CEDAW, A/52/38/Rev.1 part I (1997) 34 at para. 263.

The inadequacy of culturally and gender-sensitive measures and programmes for immigrant and refugee women to enable them to benefit from legal and social services available is noted with concern.

- Luxembourg, CEDAW, A/52/38/Rev.1 part II (1997) 92 at para. 211.

The fact that no adequate steps have been taken to ensure that the high number of women foreigners in Luxembourg are able to take advantage of the guarantees in the Convention is of concern.

- Azerbaijan, CEDAW, A/53/38/Rev.1 part I (1998) 7 at para. 75.

Refugee and migrant women should be provided with adequate information to protect them from traffickers and others who seek to exploit women for the purposes of prostitution.

- Greece, CEDAW, A/54/38/Rev.1 part I (1999) 20 at paras. 209 and 210.

Paragraph 209

The low level of continuous attention given to immigrants and refugees in the region is a concern.

Paragraph 210

The Government is urged to develop a general policy to address the particular needs of immigrant and migrant women with regard to their protection, health, employment and educational needs. The

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Government is also urged to ensure that repatriation efforts are consistent with women's safety and protection needs. The Government should also consider entering into bilateral agreements with women migrants' countries of origin to ensure adequate protection of women's rights and safety.

- Spain, CEDAW, A/54/38/Rev.1 part II (1999) 67 at paras. 274 and 275.

Paragraph 274

The situation of foreign women workers in domestic service, asylum seekers and women who may be living clandestinely in Spain is a concern. These women may lack adequate protection from violence and abuse.

Paragraph 275

Measures should be taken to improve the level of literacy, including legal literacy, of foreign women workers in domestic service, asylum seekers and women who may be living clandestinely in Spain.

- Germany, CEDAW, A/55/38 part I (2000) 29 at paras. 317, 318, 320, 323, 327 and 328.

Paragraph 317

The often precarious social and economic situation of foreign women living in Germany is of concern. Concern is also expressed at the incidences of xenophobic and racist attacks in the State party. The vulnerabilities that foreign women can face on the multiple grounds of sex, ethnicity and race, are noted.

Paragraph 318

The Government is requested to undertake a comprehensive assessment of the situation of foreign women, including their access to education and training, work and work-related benefits, health care and social protection. The Government is further called upon to improve the collection of data and statistics disaggregated by sex and race/ethnicity of victims of violence motivated by xenophobia and racism, to put in place adequate protection mechanisms and to ensure that foreign women victims of such attacks are made aware of their rights and have access to effective remedies. The Government is also urged to strengthen its efforts for the social integration of foreign women through educational and employment services, and through awareness-raising of the population. Steps should be taken to combat domestic violence and violence within the family and to increase foreign women's awareness about the availability of legal remedies and means of social protection.

Paragraph 320

Measures should be taken to sensitize the judiciary to all forms of violence against women that constitute infringements of the human rights of women under the Convention, particularly taking into account the increased vulnerability of foreign women to such violence.

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Paragraph 323

The continuing stereotypical portrayal of women, especially of foreign women, in the media, is of concern.

Paragraph 327

Noting the Government's intention to amend the Aliens Act on the legal status of foreign spouses, concern is expressed at the situation of alien women seeking residence in the State party.

Paragraph 328

The Government is urged to continue to improve the legislative and social protection of alien women, especially of women asylum seekers.

- Finland, CEDAW, A/56/38 part I (2001) 29 at paras. 305 and 306.

Paragraph 305

Concern is expressed at the continuing discrimination against immigrant and minority women living in Finland, particularly Roma and Sami women, who suffer from double discrimination, based on both their sex and ethnic background.

Paragraph 306

Studies should be undertaken on the participation of minority women in society and effective measures should be taken to eliminate discrimination against them and to strengthen efforts to combat racism and xenophobia.

- Guinea, CEDAW, A/56/38 part II (2001) 55 at para. 125.

Female and male spouses who marry foreigners should be treated equally in regulations governing nationality. The Government is urged to ensure that the concept of *jus sanguinis* is applied to ensure that children of mixed parentage born outside the country can acquire nationality through their Guinean mother.

- The Netherlands, CEDAW, A/56/38 part II (2001) 63 at paras. 211 and 212.

Paragraph 211

Concern is expressed about non-European women who have been trafficked, who fear expulsion to their countries of origin and who might lack the effective protection of their Government on their return.

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Paragraph 212

The State party is urged to ensure that trafficked women are provided with full protection in their countries of origin or grant them asylum or refugee status.

- Sweden, CEDAW, A/56/38 part II (2001) 76 at paras. 356 and 357.

Paragraph 356

Taking note of the efforts of the Government to combat discrimination, concern is expressed about the continuing discrimination against immigrant, refugee and minority women, including in education and employment, and at the gender-based discrimination and violence that they face in their own communities.

Paragraph 357

Effective measures should be taken to eliminate discrimination against immigrant, refugee and minority women and efforts to combat xenophobia and racism should be strengthened. The State party is also encouraged to be more proactive in its measures to prevent discrimination against immigrant, refugee and minority women, both within their communities and in society at large, to combat violence against them and to increase their awareness of the availability of social services and legal remedies.

CAT

- Italy, CAT, A/50/44 (1995) 21 at para. 154.

The persistence of cases of ill treatment in prisons by police officers is of concern. A dangerous trend towards racism is noted, since the victims are either from foreign countries or belong to minorities.

- Finland, CAT, A/51/44 (1996) 21 at para. 136.

Legal protection should be provided to those persons who request asylum and who are sent back to a country included in the list of safe countries by decision of the competent authority. Decisions on expulsion, return (*refoulement*) or extradition should take into account the provisions of article 3 of the Convention.

- Switzerland, CAT, A/53/44 (1998) 11 at para. 100.

The authorities should investigate the allegations of medical treatment carried out on persons who

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are being expelled, without their consent.

- France, CAT, A/53/44 (1998) 15 at para. 145.

Article 3 of the Convention applies equally to expulsion, *refoulement* and extradition. The possibility should exist of lodging a suspensive appeal against a refusal to allow entry and subsequent *refoulement*.

- Germany, CAT, A/53/44 (1998) 19 at para.194.

Police and immigration officers of all ranks, as well as medical personnel, should receive compulsory training concerning human rights in general and especially concerning the Convention against Torture. Since most reports of ill-treatment come from foreigners, it is recommended that these officers also receive training in the areas of conflict management and ethnic minorities.

- Venezuela, CAT, A/54/44 (1999) 16 at para. 147.

The State party should regulate procedures for dealing with and deciding on applications for asylum and refugee status which envisage the opportunity for the applicant to attend a formal hearing and to make such submissions as may be relevant to the right which he invokes, including pertinent evidence, with protection of the characteristics of due process of law.

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

The following developments are welcomed:

The improvement of correctional facilities and, in particular, the arrangements for the housing of illegal immigrants in dormitories formerly used by police staff.

The entrusting of the supervision of asylum seekers to the ordinary police instead of the Special Assignment Group.

The completion and the expected presentation to Parliament of the new Asylum Act which provides, *inter alia*, for: (i) the removal of the geographical exception limiting the granting of asylum to European refugees; (ii) the appointment of a commissioner to decide asylum cases; (iii) the right to appeal the commissioner's decision before an independent appeals board; and (iv) the fact that asylum seekers cannot be deported before a final decision has been taken in their case.

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- Austria, CAT, A/55/44 (2000) 11 at para. 49.

Insufficient measures of protection of individuals under a deportation order, which are not in conformity with the provisions of articles 3 and 11 of the Convention, particularly as instanced by a reported case of death during the deportation procedure is of concern.

- Uzbekistan, CAT, A/55/44 (2000) 19 at paras. 80 and 81.

Paragraph 80

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

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

- El Salvador, CAT, A/55/44 (2000) 28 at paras. 163 and 169.

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 169

Legal provisions should be introduced opposing expulsion, return or extradition in circumstances referred to in article 3 of the Convention.

- Slovenia, CAT, A/55/44 (2000) 34 at paras. 206, 207, 210 and 211.

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.

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Paragraph 207

The sub-standard conditions in which asylum-seekers are housed in the State party is of concern.

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.

Paragraph 211

As a matter of priority, the State party is urged to take all necessary measures to ensure that asylum-seekers are housed in conditions that comply with the requirements of article 16 of the Convention.

- Australia, CAT, A/56/44 (2001) 22 at paras. 52 and 53

Paragraph 52

Concern is expressed about the apparent lack of appropriate review mechanisms for ministerial decisions in respect of cases coming under article 3 of the Convention.

Paragraph 53

The State party should consider the desirability of providing a mechanism for independent review of ministerial decisions in respect of cases coming under article 3 of the Convention.

- Canada, CAT, A/56/44 (2001) 24 at paras. 58 and 59.

Paragraph 58

Concern is expressed over the following:

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.

Paragraph 59

It is recommended that the State party:

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

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or not the individual is a serious criminal or security risk.

- Greece, CAT, A/56/44 (2001) 38 at paras. 87 and 88.

Paragraph 87

Concern is expressed that, although the domestic legislation provides a satisfactory framework for protecting human rights in general and of certain Convention rights in particular, difficulties in effective implementation remain, which may amount to a breach of the Convention. For example, there is evidence that the police sometimes use excessive or unjustifiable force in carrying out their duties particularly when dealing with ethnic and national minorities and foreigners. Further, the harsh conditions of detention in general and, in particular, the long-term detention of undocumented migrants and/or asylum-seekers awaiting deportation in police stations without adequate facilities are of concern.

Paragraph 88

It is recommended that urgent measures be taken to improve conditions of detention in police stations and prisons and that undocumented migrants and/or asylum seekers who have not been convicted of a criminal offence not be held for long periods in such institutions. Such measures as are necessary, including training, should be taken to ensure that in the treatment of vulnerable groups, in particular foreigners, ethnic and national minorities, law enforcement officers do not resort to discriminatory practices. Detention facilities should be created for undocumented migrants and/or asylum seekers that are separate from prison or police institutions and urges the State party to complete its proposed new building construction for aliens as a matter of urgency.

- Slovakia, CAT, A/56/44 (2001) 43 at para. 104.

Concern is expressed about 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.

- Czech Republic, A/56/44 (2001) 46 at para. 108.

The ongoing efforts by the State party to reform its legal system and revise its legislation based on universal human values in order to safeguard fundamental human rights is welcomed, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, including:

The adoption of the new Aliens Law and the new Asylum Law, both effective from 1 January 2000.

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The amendment to the Citizenship Law which resolved most problems of statelessness that had disproportionately affected the Roma population.

The amendment to the legislation and the introduction of a special detention facility for foreigners, which resolved the problems arising from the detention of foreigners prior to expulsion.

- Brazil, CAT, A/56/44 (2001) 49 at para. 118.

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 is noted with satisfaction.

CRC

- Sweden, CRC, CRC/C/16 (1993) 16 at paras. 54, 57 and 58.

Paragraph 54

The practice of taking foreign children into custody under the Aliens Act is of concern, as this practice is discriminatory in so far as Swedish children generally cannot be placed in custody until after the age of 18.

Paragraph 57

Consideration should be given to providing alternatives to the incarceration of children under the Aliens Act and a public defence counsel should be appointed for children in conflict with the law.

Paragraph 58

Steps should be taken to monitor more closely the situation of foreign children placed in adoptive families in Sweden. The importance of monitoring the situation of foreign children and other vulnerable groups is emphasized, and to this end, the State party's next report should include fuller statistical and other indicators for these groups, including the incidence of HIV infection and AIDS.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/38 (1995) 35 at para. 209.

The broad nature of the reservations made to the Convention by the State party raise concerns as to their compatibility with the object and purpose of the Convention. In particular, the reservation relating to the application of the Nationality and Immigration Act does not appear to be compatible with the principles and provisions of the Convention, including those of its articles 2, 3, 9 and 10.

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- Canada, CRC, CRC/C/43 (1995) 16 at para. 81.

It is regretted that the principles of non-discrimination, of the best interests of the child and of the respect for the views of the child have not always been given adequate weight by administrative bodies dealing with the situation of refugee or immigrant children. Of particular concern are the measures used to deprive children of their liberty for security or other related purposes and the insufficient measures aimed at family reunification with a view to ensuring that it is dealt with in a positive, humane and expeditious manner. The delays in dealing with reunification of the family in cases where one or more members of the family has been considered eligible for refugee status in Canada, as well as cases where refugee or immigrant children born in Canada may be separated from their parents facing a deportation order, are also regrettable.

- Portugal, CRC, CRC/C/46 (1995) 24 at para. 157.

That the principle of non-discrimination is not fully implemented for girls, disabled children, illegal immigrant children, non-accompanied children and children living in rural areas, especially in the fields of education and health, is of concern.

- Finland, CRC, CRC/C/50 (1996) 35 at paras. 224 and 234.

Paragraph 224

In light of articles 2 and 3 of the Convention, concern is expressed about the increasing negative attitude in society towards foreigners.

Paragraph 234

To reduce the current increase in negative feeling and racism towards foreigners, the State party should take all necessary measures, including information campaigns in schools and in society at large. Upon arrival in Finland, all unaccompanied children seeking refugee status should be promptly informed in their language of their rights.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), CRC, CRC/C/57 (1996) 23 at para. 138.

As regards to the situation of illegal immigrant children from China and the question of families split between Hong Kong and China, the increase in the number of permits arranged for these children and their families, from 105 to 150, is of concern. This increase is manifestly insufficient to meet the needs of the estimated 60,000 children currently in China who may have the right of abode in Hong Kong

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after 1 July 1997.

- Thailand, CRC, CRC/C/80 (1998) 35 at para. 179.

Concern is expressed over the fact that the legal framework for protection of unaccompanied and asylum-seeking children remains unclear. The legislative framework should be clarified to ensure adequate protection of unaccompanied and asylum seeking children, including in the field of physical safety, health and education. Procedures should also be established to facilitate family reunification. All appropriate measures should be taken by the State party to avoid the placement of asylum-seeking children in immigration detention centres. Assistance from UNHCR should be considered in this regard. Ratification of the 1951 Convention relating to the Status of Refugees and its 1966 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness should also be considered.

- Belize, CRC, CRC/C/84 (1999) 12 at para. 77.

Efforts should be increased to raise awareness among government officers, community leaders and parents to ensure that all children are registered at birth. Measures should be adopted to regularize the situation of immigrant children and provide them with documentation to guarantee their rights and facilitate their access to basic health, education and other services.

- Venezuela, CRC, CRC/C/90 (1999) 10 at para. 48.

Efforts to ensure the immediate registration of the birth of all children, including measures in cooperation with non-governmental organizations and with the support of international organizations, should be taken to ensure that birth registration procedures are widely known and understood by the population at large. In this regard, the situation of children belonging to indigenous groups and to illegal immigrant families deserves special attention.

- Russian Federation, CRC, CRC/C/90 (1999) 18 at para. 113.

The practice of preventing parents and their children from having access to medical, educational, and other social services in a city for which they do not have a residency permit is particularly harmful to internally displaced children, migrants and asylum-seekers, and children working and living in the street and is of concern.

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- Costa Rica, CRC, CRC/C/94 (2000) 37 at paras. 224 and 234.

Paragraph 224

With regard to the implementation of article 2 of the Convention, concern is expressed at the manifestations of xenophobia and racial discrimination against immigrants, particularly children belonging to Nicaraguan families residing illegally in the State party's territory. Educational campaigns should be undertaken to raise awareness in order to prevent and combat discrimination on the grounds of gender, ethnic and/or national origin. In this regard, the Committee endorses the recommendations made by the Human Rights Committee (CCPR/C/79/Add.107) and the Committee for the Elimination of Racial Discrimination (CERD/C/304/Add.71).

Paragraph 234

Concern is expressed about the precarious situation of children belonging to Nicaraguan families illegally residing in the State party's territory. In the light of articles 2 and 30 of the Convention, it is recommended that the State party take effective measures to protect children belonging to Nicaraguan families in irregular situations against discrimination and guarantee the enjoyment of all the rights recognized by the Convention.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at para. 71.

It is recommended that the State party: ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness; set up a central system of registration and monitoring of refugees in order to provide accurate statistics, and clarify the status of refugees; adopt special measures to deal with unaccompanied children; entertain requests for family reunification in view of its impact on the possibility of resettlement in third countries of asylum; and review discriminatory employment policies (i.e. issuance of work permits) which affect the capacity of refugee families, particularly Afghan refugees, to support themselves. The State party is encouraged to continue and expand its cooperation with international agencies, including UNHCR and UNICEF.

- Norway, CRC, CRC/C/97 (2000) 43 at paras. 217, 218, 229, 230, 239 and 240.

Paragraph 217

Note is taken of the considerable efforts being made by the State party to combat trends towards intolerance of foreigners and to address the issues of racism and xenophobia, including through the involvement and participation of youth. The active role being taken by the State party within regional forums in encouraging similar approaches to such problems is welcomed.

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Paragraph 218

The amendments to the Citizen Act are noted with satisfaction. Their positive impact on the situation of foreign children who are adopted by Norwegian citizens and other persons residing in Norway are noted.

Paragraph 229

The State party's efforts to ensure that children within Norwegian jurisdiction, including those whose presence is not in line with legal requirements, benefit from the rights defined in the Convention are welcomed. Nevertheless, concern is expressed that this principle is not established in all relevant domestic legislation, that the absence of a legal guarantee may deprive some children without Norwegian nationality of their rights, and that some limitations are placed on these children's access to health and education services.

Paragraph 230

The full, including long-term, impact of this situation on the rights of children without Norwegian nationality and without legal status living within Norwegian jurisdiction should be considered. The State party is encouraged to consider amendments to national legislation which would ensure the full applicability of article 2 of the Convention.

Paragraph 239

Despite the State party's positive efforts, concern is expressed that when decisions to deport foreigners convicted of a criminal offence are taken, professional opinions on the impact of such decisions upon the children of the deported persons are not systematically referred to and taken into consideration.

Paragraph 240

The process through which deportation decisions are made should be reviewed to ensure that, where deportation will mean the separation of a child from his or her parent, the best interests of the child are taken into consideration.

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 288, 289, 290 and 291.

Paragraph 288

Concern is expressed about the prevailing disparities in the enjoyment of the rights of children in Kyrgyzstan. The guarantee of non-discrimination in article 2 of the Convention may be jeopardized, for example by the 1998 social security law which effectively deprives all non-citizens of rights to social security benefits, except for education fee discounts for families with many children and/or of low income; and the practice whereby non-citizens are subject to higher fees demanded by health

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practitioners.

Paragraph 289

All necessary measures should be taken to ensure that all children within the jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. The State party should prioritize and target social services for children belonging to the most vulnerable groups.

Paragraph 290

Concern is expressed that in practice the system of residence registration in Kyrgyzstan may restrict the rights of children belonging to vulnerable groups (e.g. refugees, non-citizens, migrants and persons internally displaced owing to conflict, economic factors, or environmental disasters) to access to health care and other social services. In particular, concern is expressed about reports that officials at the local level are sometimes reluctant to see migrants settle in their jurisdiction and do not observe regulations concerning temporary residence registration.

Paragraph 291

It should be ensured that the registration system does not pose a barrier to access to services, particularly for the most vulnerable groups.

- Liechtenstein, CRC, CRC/C/103 (2001) 19 at para. 103.

The State party should renew its campaign, held in 1995, against racism, xenophobia and related intolerance with the view, *inter alia*, to preventing prejudices and hostilities towards foreigners among children and adolescents.

- Dominican Republic, CRC, CRC/C/103 (2001) 91 at paras. 503, 504, 507 and 508.

Paragraph 503

The discrimination against children of Haitian origin born in the State party's territory or belonging to Haitian migrant families is of deep concern, especially their limited access to housing, education and health services.

Paragraph 504

In the light of article 2 and other related articles of the Convention, the State party should take, as a matter of priority, effective measures to ensure that children of Haitian origin born in the State party's territory or belonging to Haitian migrant families have the same access to housing, education and health services as other children.

Paragraph 507

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While efforts in the area of birth registration are noted, concerns remain that a large percentage of children are not registered and are not provided with identity cards, thus preventing them from fully enjoying their rights. In particular, concern is expressed about the situation of children of Haitian origin or belonging to Haitian migrant families whose right to birth registration has been denied. As a result of this policy, those children have not been able to enjoy fully their rights, such as to access to health care and education.

Paragraph 508

In the light of article 7 of the Convention, the State party should strengthen and increase its measures to ensure the immediate registration of the birth of all children. Special emphasis should be placed on the registration of children belonging to the most vulnerable groups, including children of Haitian origin or belonging to Haitian migrant families.

- Denmark, CRC, CRC/C/108 (2001) 10 at paras. 58 and 59.

Paragraph 58

De facto discrimination against and xenophobia directed at certain groups of children, especially children belonging to ethnic minorities, refugee and asylum-seeking children, children belonging to migrant families, children with disabilities and those belonging to socially and economically disadvantaged families, continues to be of concern, including within the education system.

Paragraph 59

In light of article 2 and other related articles of the Convention, the State party should strengthen its measures, including through the Board for Ethnic Equality by, *inter alia*, organizing ongoing awareness raising campaigns to change attitudes and to eliminate *de facto* discrimination against and xenophobia directed at minority groups, especially children belonging to migrant families, refugee children, children with disabilities, and children belonging to socially and economically disadvantaged families.

- Bhutan, CRC, CRC/C/108 (2001) 85 at paras. 458 and 459.

Paragraph 458

It is of concern that under citizenship laws a child of a Bhutanese mother and a non-national father must face a burdensome naturalization process, whereas this is not required if the father is Bhutanese.

Paragraph 459

The right of a child to a nationality should be ensured without discrimination on the basis of the

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gender of the parent(s), in accordance with articles 2 and 7 of the Convention.

- Monaco, CRC, CRC/C/108 (2001) 97 at paras. 521 and 522.

Paragraph 521

It is of concern that while Monegasque children have a right to free health care, domestic legislation and practice do not expressly guarantee the same right to all children in the State party, in particular children from disadvantaged backgrounds and who are neither nationals nor residents of the State party.

Paragraph 522

The State party should ensure that all children within its jurisdiction are treated equally under the law and in particular, that a right to health care is provided to all children.