

## ALIENS - MIGRANT WORKERS

### IV. CONCLUDING OBSERVATIONS, CONTINUED

#### CERD

- Denmark, CERD, A/57/18 (2002) 27 at para. 120.

120. The Committee commends the State party for having instituted programmes, such as the language training programme for unemployed persons with insufficient knowledge of the Danish language; the strengthening of the Public Employment Services placement activities in relation to refugees and immigrants; and the "ice-breaker" programme. However, despite overall improvements, it is concerned about the disproportionately high level of unemployment among foreigners, particularly groups of immigrants of non-European and non-North American descent. The State party is reminded that although it is not obliged to provide work permits to foreign residents, it should guarantee that foreigners who are entitled to a work permit are not discriminated against in their access to employment.

- Canada, CERD, A/57/18 (2002) 56 at paras. 337 and 338.

337. The Committee is concerned about allegations that children of migrants with no status have been excluded from the school system in some of the provinces and hopes that the situation will be remedied.

338. The Committee notes with concern that, in the aftermath of the events of 11 September 2001, Muslims and Arabs have suffered from increased racial hatred, violence and discrimination. The Committee therefore welcomes the statement of the Prime Minister in the Ottawa Central Mosque condemning any acts of intolerance and hatred against Muslims, as well as the reinforcement of Canadian legislation to address hate speech and violence. In this connection, the Committee requests the State party to ensure that the application of the Anti-terrorism Act does not lead to negative consequences for ethnic and religious groups, migrants, asylum-seekers and refugees, in particular as a result of racial profiling.

- Ecuador, CERD, A/58/18 (2003) 22 at paras. 50, 53 and 66.

50. The Committee welcomes the adoption of several action plans within the framework of the State party's National Human Rights Plan, in particular those on the rights of black persons and on the rights of foreigners, migrants, refugees and stateless and displaced persons, as well as the State party's efforts to promote the adoption of other action plans, in particular on the rights of indigenous peoples.

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53. The Committee notes with satisfaction that the State party has ratified ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries of 1989 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

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66. The Committee is concerned at the reports on discrimination and hostility suffered by migrants and calls on the State party to intensify its efforts in designing and implementing educational campaigns to combat racial discrimination within all sectors of society.

- Russian Federation, CERD, A/58/18 (2003) 38 at para. 180.

180. The Committee expresses concern that a large number of former Soviet citizens who previously resided legally in the Russian Federation have been considered illegal migrants since the entry into force in 2002 of the Federal Laws on Russian Citizenship and on the Legal Status of Foreign Citizens in the Russian Federation. The Committee urges the State party to take steps to regularize the position of persons in this category.

- Saudi Arabia, CERD, A/58/18 (2003) 41 at paras. 206, 217 and 218.

206. The Committee welcomes the recent initiative to include non-Saudis in a health insurance system. The Committee has also noted with satisfaction that measures have been taken to put an end to the practice of employers retaining the passports of their foreign employees, in particular domestic workers. It also notes the high number of schools that have been authorized to offer programmes for the education of children of migrant workers that have been designed in their country of origin.

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217. The Committee is concerned about allegations of substantial prejudice against migrant workers, in particular those coming from Asia and Africa. The Committee invites the State party to report on the situation, in particular, of women domestic workers and draws the attention of the State party to its general recommendation XXV on gender-related dimensions of racial discrimination.

218. The Committee is concerned at allegations that a disproportionate number of foreigners are facing the death penalty. The Committee encourages the State party to cooperate fully with the Special Rapporteur on extrajudicial, summary and arbitrary executions who has requested information on several cases of migrant workers who have not received legal assistance and have been sentenced to death.

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- Republic of Korea, CERD, A/58/18 (2003) 83 at paras. 489 and 495.

489. The Committee welcomes legislation adopted in July 2003 establishing the Employment Permit System, which provides foreign workers with the same labour protection as domestic workers. It also welcomes the amendment to the education regulations that allows foreign children of compulsory school age, including those of undocumented migrant workers, equal access to local schools.

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495. The Committee remains concerned that foreign workers in the industrial trainee programme and undocumented migrants do not fully enjoy their rights as provided by article 5.

The Committee recommends that the State party continue to take measures to improve the situation of all migrant workers, in particular with regard to the right to security of person and to social security and social services...

- Bahamas, CERD, A/59/18 (2004) 10 at paras. 23, 31 and 34.

23. The Committee notes with satisfaction the State party's commitment to make every effort to guarantee that migrants can exercise their human rights without discrimination.

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31. The Committee is concerned at reports of statements and press articles inciting racial discrimination against migrants, Haitians in particular, and actual discrimination against migrants in fields such as education and employment. It is disturbed to hear that the State party says it has not been told of such allegations.

The Committee recommends the State party to conduct an inquiry into these allegations and notify the Committee of the outcome. Where appropriate, the State party should take all necessary punitive, educational and other measures to put an end to such conduct.

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34. The Committee notes with concern that people entering the country without proper papers are automatically detained without such detention being subjected to judicial review. It takes note of the delegation's statement that such detention does not generally last longer than a few days but is disturbed at reports emphasizing that such detention sometimes extends to a year and more, depending on migrants' nationalities.

The Committee emphasizes that detention should be a last resort and invites the State party to adopt alternatives to detention for undocumented migrants and asylum-seekers. It recommends the institution of a right of appeal against orders to detain people entering the country without proper papers; such individuals should be duly informed of their rights and maximum duration of detention should be strictly defined.

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- Lebanon, CERD, A/59/18 (2004) 18 at paras. 80 and 83.

80. The Committee welcomes the measures taken with regard to foreign workers, in particular order No. 5 of the Ministry of Labour dated 17 January 2003, concerning regulation of the work of agencies that recruit domestic employees. The Committee further notes the adoption by the Ministry of Labour of order No. 142/1 of 20 November 2003, pending the amendment of the labour code. It welcomes the decisions by courts declaring illegal the confiscation of passports by employers.

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83. While welcoming the measures taken to improve the protection of migrant workers, the Committee remains concerned at the situation of migrant workers in practice, in particular domestic workers, who do not benefit fully from the protection of the labour code. Furthermore, the Committee regrets that insufficient information was provided as to how the bill for the establishment of a new labour code would affect migrant workers and whether it would provide any specific protection against discrimination on the grounds specified in the Convention.

The Committee urges the State party to take all necessary measures to extend full protection to all migrant workers, in particular domestic workers... In addition, the Committee recommends that the State party ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

- Libyan Arab Jamahiriya, CERD, A/59/18 (2004) 21 at paras. 103, 104 and 107.

103. The Committee is deeply concerned about reported acts of violence, stemming from anti-Black sentiment in the population, which were perpetrated in September 2000 against African migrant workers and led to the death of many persons. The Committee regrets that no updated response was provided by the State party on the action taken to sanction those responsible and prevent the occurrence of such violence in the future.

The Committee requests that the State party submit detailed information about the number of persons who died and their nationality, the results of the inquiry made by the authorities, the prosecution of persons in relation to these events, and sentences, if any, that were pronounced. The Committee also wishes to receive information about the results of the measures previously announced by the State party in response to these events, in particular the creation of a committee to look into the events and to study all manifestations of xenophobia, as well as measures for the regularization of undocumented migrants.

104. The Committee is concerned that, according to some information, thousands of African migrant workers have been expelled since 2000.

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The Committee...recommends that the State party ensure that the removal of non-citizens does not discriminate amongst them on the basis of ethnic or national origin.

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107. The Committee is concerned at information that anti-Black sentiment and racially motivated acts against foreign workers have an adverse impact on their employment situation and terms and conditions of employment.

The Committee recommends that the State party ensure that foreign workers are not discriminated against in employment on the basis of their colour or their ethnic or national origin.

- Spain, CERD, A/59/18 (2004) 32 at para. 171.

171. The Committee notes that legislative changes have been introduced to the Aliens Act, which may allegedly restrict the process of regularization of irregular immigrants. The Committee expresses concern about the resulting increase in the number of irregular immigrants and the negative consequences for the enjoyment of their rights.

The Committee recommends that the State party, while favouring the regular channels of migration, take appropriate measures to guarantee that adequate avenues for regularization are available to foreigners residing in Spain in an irregular situation. It also recommends that the State party ensure the enjoyment of human rights for all foreigners in the country, whether documented or undocumented, regular or irregular. In this respect, the Committee also invites the State party to envisage the signature and ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which sets out a series of human rights for all migrant workers and members of their families, whether in a regular or irregular situation.

- Argentina, CERD, A/59/18 (2004) 45 at paras. 235, 241 and 244.

235. The Committee welcomes the entry into force of Immigration Law No. 25871 in January 2004, which replaces the former Immigration Law No. 22439, and provides, *inter alia*, for the following:

- (a) The right to migrate as an essential and inalienable right;
- (b) Migrants' access to basic rights such as education and health irrespective of their migration status;
- (c) That migrants may only be expelled pursuant to a judicial order; and

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(d) The criminalization of trafficking in human beings.

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241. While the Committee welcomes the new Immigration Law No. 25871, it takes note that enacting measures still need to be adopted.

The Committee calls upon the State party to enact measures to implement the law without delay, taking full account of the principle of non-discrimination. The Committee furthermore recommends that the State party conduct a public information and awareness-raising campaign and provide training courses for all governmental authorities at the national, provincial and municipal levels on the changes contained in the new law.

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244. The Committee is disturbed by reports of trafficking of migrants, particularly migrant women exploited as sexual workers.

The Committee urges the State party to develop comprehensive policies and allocate adequate resources to prevent, investigate and punish these crimes, as well as to provide assistance and support to victims...

- Portugal, CERD, A/59/18 (2004) 66 at para. 371.

371. The Committee notes the new rules for family reunification following the recent enactment of new legislative provisions governing the entry, stay, departure and removal of aliens from the national territory.

The Committee recommends that the State party take measures to facilitate family reunification of immigrants in a regular situation. Furthermore, the Committee invites the State party to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Australia, CERD, A/60/18 (2005) 13 at para. 43.

43. The Committee expresses concern about the mandatory detention of illegal migrants, including asylum-seekers, in particular when such detention affects women, children, unaccompanied minors, and those who are considered stateless. It is concerned that many persons have been in such administrative detention for over three years (art. 5).

The Committee recommends that the State party review the mandatory, automatic and indeterminate character of the detention of illegal migrants...

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- Bahrain, CERD, A/60/18 (2005) 22 at paras. 84 and 85.

84. The Committee remains concerned at the situation of migrant workers, in particular regarding their enjoyment of economic, social and cultural rights.

In light of article 5 (e) (i) and of general recommendation XXX on non-citizens, the Committee urges the State party to take all necessary measures to extend full protection from racial discrimination to all migrant workers and remove obstacles that prevent the enjoyment of economic, social and cultural rights by these workers, notably in the areas of education, housing, employment and health...

85. The Committee is concerned about allegations of substantial prejudice against women migrant domestic workers, in particular those coming from Asia, especially as regards their working conditions, and about the fact that these women do not benefit from the protection of the Labour Code.

In light of its general recommendation XXX and of its general recommendation XXV on gender-related dimensions of racial discrimination, the Committee requests the State party to take effective measures to prevent and redress the serious problems commonly faced by female domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault, and to report on measures taken for the protection of their rights.

- Ireland, CERD, A/60/18 (2005) 30 at paras. 138 and 147.

138. The Committee is concerned about reported instances of exploitation of foreign workers by some employers and of violations of labour regulations prohibiting discrimination (art. 5).

The Committee, recalling its general recommendation XXX on discrimination against non-citizens, encourages the State party to ensure full practical implementation of legislation prohibiting discrimination in employment and in the labour market. In this context, the State party could also consider reviewing the legislation governing work permits and envisage issuing work permits directly to employees.

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147. The Committee is particularly concerned about the situation faced by women belonging to vulnerable groups and at the instances of multiple discrimination they may be subject to (art. 5).

The Committee, recalling its general recommendation XXV, encourages the State party to take measures with regard to the special needs of women belonging to minority and other vulnerable groups, in particular female Travellers, migrants, refugees and asylum-seekers.

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- Luxembourg, CERD, A/60/18 (2005) 40 at para. 199.

199. The Committee is concerned that a number of non-nationals are illegally employed in Luxembourg, and are thus exposed to abuse by their employers.

In the light of its general recommendation XXX, the Committee encourages the State party to take practical steps to prevent and redress the serious problems faced by non-citizen workers, ensuring that any employers who recruit illegal workers are punished.

- Iceland, CERD, A/60/18 (2005) 51 at para. 268.

268. While noting that the issuance of temporary work permits to employers of foreign workers rather than to the employees themselves serves to better oversee the situation of the labour market, and that copies of such permits indicating the expiry date are handed out to the employees, who may change jobs during the period covered by the permit, the Committee is concerned that this situation may lead to breaches of the labour rights of temporary foreign workers (art. 5, para. (e) (i)).

Recalling its general recommendation XXX (2004) on discrimination against non-citizens, the Committee recommends to the State party that it strengthen legal safeguards to prevent such breaches and to ensure that foreign workers are protected against discrimination, in particular in relation to working conditions and work requirements.

- Nigeria, CERD, A/60/18 (2005) 54 at para. 287.

287. The Committee regrets the paucity of information in the State party's report on the rights of non-citizens temporarily or permanently residing in Nigeria, including refugees, stateless persons, displaced persons and migrant workers. Furthermore, the Committee notes that the guarantees against racial discrimination contained in section 42 of the Constitution do not extend to non-citizens (arts. 1 and 2).

In the context of the current constitutional review and the drafting of an Anti-Discrimination Bill by the Parliament, the Committee invites the State party to consider extending the scope of its domestic legislation so as to protect non-citizens from racial discrimination... In this regard, the Committee draws the attention of the State party to its general recommendation XXX (2004) on non-citizens.

## **ICCPR**



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- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(18).

(18) While welcoming the various programmes adopted by the State party, the Committee is very concerned about the situation of migrant girls leaving the countryside for the towns to work as domestic servants and who, according to some reports, work an average of 16 hours a day for very low or non-existent wages, are often the victims of rape and ill-treatment, and may be forced into prostitution (article 8).

The State party should intensify its efforts to punish those responsible for the exploitation of these migrant girls. The State party should adopt and develop appropriate complaint and protection mechanisms...

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at para. 85(9).

(9) The Committee notes the efforts by the State party to provide better conditions for migrant workers. It welcomes the amendment to the Foreign Workers Law and the increase in penalties imposed on employers for non-compliance with the law. It also welcomes free access to labour courts for migrant workers and the provision of information to them about their rights in several foreign languages.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at para. 95(23).

(23) The Committee is concerned about the lack of full protection of the rights of registered and unregistered migrant workers in Thailand, particularly with regard to liberty of movement, access to social services and education, and access to personal documents. The deplorable conditions in which migrants are obliged to live and work indicate serious violations of articles 8 and 26 of the Covenant. The Committee notes that ethnic minorities and migrants from Myanmar are particularly vulnerable to exploitation by employers as well as to deportation by the Thai authorities. The Committee is also concerned that a significant number of migrant workers, mainly from Myanmar, are still missing in the aftermath of the tsunami in December 2004 and that others were not provided with the necessary humanitarian assistance due to their lack of legal status (arts. 2, 8 and 26).

The State party must take measures to effectively implement the existing legislation providing for the rights of migrant workers. Migrant workers should be afforded full and effective access to social services, educational facilities and personal documents, in accordance with the principle of non-discrimination. The State party should consider establishing a governmental mechanism to which migrant workers can report violations of their rights by their employers, including illegal withholding of their personal documents. The Committee also recommends that humanitarian assistance be effectively provided to all

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victims of the tsunami disaster without discrimination, regardless of their legal status.

### ICESCR

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/2003/22 (2002) 39 at paras. 224 and 243.

224. The Committee is concerned about the high incidence of HIV/AIDS in some of the State party's Caribbean territories. It is particularly concerned about the number of HIV/AIDS cases in the Turks and Caicos Islands and St. Vincent and the Grenadines, and the lack of availability of, and access to, anti-retroviral medication for migrant workers and AIDS orphans.

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243. In the context of HIV/AIDS, the Committee urges the State party to ensure the availability of, and equal access to, anti-retroviral medication for all individuals in Overseas Dependent Territories.

- Poland, ICESCR, E/2003/22 (2002) 54 at paras. 356 and 378.

356. The Committee notes with regret that it did not receive a satisfactory answer from the State party as to whether migrant workers and members of their families have the right to appeal in courts. The Committee is concerned that the rights enshrined in the Covenant are insufficiently protected for a large number of migrant workers residing in Poland.

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328. In view of the large number of migrant workers in Poland, the Committee urges the State party to ensure the effective protection of the rights of migrant workers and their families, provided for under the Covenant.

- Luxembourg, ICESCR, E/2004/22 (2003) 24 at paras. 72 and 104.

72. The Committee notes with appreciation the recent draft amendment to the law governing joint enterprise committees in the private sector, by which foreign workers who are not citizens of the European Union but have a one-year work permit are allowed to serve on joint enterprise committees.

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104. The Committee recommends that the State party continue and strengthen its efforts to support and subsidize cultural associations, including those of migrants.

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- Israel, ICESCR, E/2004/22 (2003) 42 at para. 251.

251. The Committee welcomes the improvements in the conditions for foreign workers, allowing them to change employers for the legal duration of their stay, prohibiting employers from withholding workers' passports, as well as the regulations regarding the system of compulsory health insurance for these foreign workers.

- Republic of Moldova, ICESCR, E/2004/22 (2003) 49 at paras. 304 and 326.

304. The Committee is concerned about the high rates of unemployment, particularly among young people, women and the Roma population. The Committee notes with great concern, in this regard, that the lack of employment opportunities and low salaries have prompted massive emigration of people in the active and working age, a majority of whom work abroad illegally without social insurance and legal protection.

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326. The Committee recommends that the State party strengthen its efforts to improve job opportunities for young people, women and the Roma population. It also recommends that the State party seek to conclude international agreements with a view to ensuring the social protection of migrant workers and, in particular, to acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 459 and 487.

459. The Committee notes with concern that the informal economy in the State party has grown considerably and that illegal migration of labour is widespread, which means that a large number of people work without legal and social protection.

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487. The Committee recommends that the State party strengthen its efforts to protect the human rights of workers in the informal labour market with a view to creating the conditions for unimpeded implementation of migrants' rights, and protecting migrants' legal rights and interests as indicated in the State party's report (para. 69). The Committee also encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Kuwait, ICESCR, E/2005/22 (2004) 29 at paras. 186, 189, 190, 191, 193, 205, 208, 210, 211 and 213.

186. The Committee is concerned about discrimination against migrant workers in the field of economic, social and cultural rights.

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189. The Committee is deeply concerned about the unfair terms of employment and working conditions of migrant workers.

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190. The Committee is also deeply concerned about the situation of domestic workers, in particular migrant workers who are excluded from the application of the Labour Code. These workers are subjected to conditions not dissimilar to forced labour, are insufficiently remunerated and are often unable to benefit from their right to rest. They are also sometimes deprived of their freedom of movement because their passports are held by their employers.

191. The Committee notes with concern the limitations with regard to the right to join trade unions for non-national workers, and about the restrictive legal limitations on the right to strike.

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193. The Committee is concerned that non-Kuwaiti workers in Kuwait are excluded from the social insurance scheme.

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205. The Committee recommends that the State party provide the same treatment to migrant workers as to Kuwaiti citizens. It further recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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208. The Committee urges the State party to take effective measures to improve the terms of employment and the working conditions of migrant workers, *inter alia*, by strengthening the financial and human resources of the labour inspectorate in order to ensure that employers who fail to observe the terms of employment and the safety regulations are sanctioned. The Committee recommends that the State party ratify ILO Convention Nos. 122 (1964) concerning Employment Policy and 174 (1993) concerning the Prevention of Major Industrial Accidents.

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210. The Committee recommends that the State party include the subject of domestic workers in the Labour Code and undertake all the necessary measures to eliminate practices amounting to forced labour. The Committee also recommends that those who violate labour legislation be sanctioned and that the victims of such violations be compensated.

211. The Committee strongly recommends that the State party liberalize the limitations on the right to strike and extend the right to join trade unions to all workers, including migrant workers, in line with article 8 of the Covenant.

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213. The Committee urges the State party to continue to carry out studies and undertake measures to ensure that social insurance benefits are accorded to non-Kuwaiti workers so that they are put on a fair and equal footing with Kuwaiti workers with regard to the right

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to social security. In this regard, the Committee encourages the State party to ratify ILO Convention No. 102 (1952) concerning Minimum Standards of Social Security.

- Ecuador, ICESCR, E/2005/22 (2004) 39 at para. 311.

311. The Committee...encourages the State party to implement the recommendations made in 2001 by the Commission on Human Rights Special Rapporteur on the human rights of migrants.

- Denmark, ICESCR, E/2005/22 (2004) 49 at paras. 390 and 403.

390. The Committee notes with concern that the 24-year rule introduced by amendment to the Aliens Act in 2002 restricts the right to family reunification and may constitute an impediment to the right to family life in the State party.

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403. The Committee calls upon the State party to take appropriate measures to either repeal or amend the so-called 24-year rule of the 2002 Aliens Act, in line with its obligation to guarantee the enjoyment of the right to family life to all persons in Denmark, without distinction. In this connection, the Committee encourages the State party to consider alternative means of combating the phenomenon of forced marriage involving immigrant women.

- Italy, ICESCR, E/2005/22 (2004) 54 at paras. 428 and 447.

428. The Committee is concerned that Law No. 189 of 30 July 2002 on Immigration, which introduced a strong link between the labour contract and the length of a residence permit, may hinder the enjoyment by migrant workers and their families of economic, social and cultural rights as enshrined in the Covenant. The Committee is further concerned about the excessive time taken by the authorities to renew residence permits in the State party, which may restrict, *inter alia*, freedom of movement and access to social services by migrant workers and their families.

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447. The Committee recommends that the State party undertake measures to expedite the process of renewing the residence permits of migrant workers so as to enable them to enjoy their economic, social and cultural rights. The Committee further recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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- China, ICESCR, E/2006/22 (2005) 25 at paras. 153 and 182.

153. The Committee is deeply concerned about the insufficient implementation of existing labour legislation in the State party that has resulted in overall poor working conditions, including excessive working hours, lack of sufficient rest breaks and hazardous working conditions. The Committee notes with concern that the problem is especially acute for migrant workers. The Committee is also alarmed by the high incidence of serious occupational accidents in the State party, particularly in the mining sector.

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182. The Committee urges the State party to take immediate steps to ensure effective and equal application of its current labour legislation for the protection of the rights of all workers, including migrant workers, to just and favourable conditions of work as enshrined in article 7 of the Covenant. The Committee further recommends that the State party ensure the right to decent work and to provide sufficient resources to the labour inspectorate to enable regular and independent inspections of safety and health conditions in all sectors and to ensure that employers who fail to observe safety regulations are duly sanctioned. In this connection, the Committee recommends that the State party consider ratifying ILO Convention No. 81 (1947) concerning Labour Inspection in Industry and Commerce.

- China (Hong Kong Special Administrative Region), ICESCR, E/2006/22 (2005) 34 at paras. 207, 208, 212, 213, 218-220, 224 and 230.

207. The Committee regrets that the Hong Kong Special Administrative Region has not implemented a number of the recommendations contained in its concluding observations of 2001.<sup>9/</sup> The Committee wishes to reiterate in particular its concern at the following issues:

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(c) The lack of effective protection from discrimination and abuse, of foreign domestic helpers, affected by the “two-week rule”, upon expiration of their contract;

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208. The Committee is concerned that the protection provided in the proposed racial discrimination law will not cover migrants from the Mainland despite the widespread *de jure* and *de facto* discrimination against them on the basis of their origin. The Committee is also concerned that according to the proposals made by the Hong Kong Home Affairs Bureau, the new law will not affect the existing immigration legislation in the Hong Kong Special Administrative Region.

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212. The Committee expresses its concern about the particularly precarious situation of foreign domestic workers, a majority of whom are from South-East Asia, who are underpaid and are not entitled to social security.

213. The Committee is seriously concerned that under the existing social security system,

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and in particular under the Comprehensive Social Security Assistance, the levels of benefit are not sufficient to guarantee a decent standard of living and that many low-income persons, in particular older persons, are not covered by the scheme. The Committee is further concerned that new migrants are unable to apply for Comprehensive Social Security Assistance due to the seven-year residence requirement.

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218. The Committee is concerned that the measures taken to facilitate enrolment in local schools of children of migrants from the Mainland and other foreign migrant workers who do not have the legal right to remain in the Hong Kong Special Administrative Region are insufficient.

219. The Committee once again urges the Hong Kong Special Administrative Region to implement the Committee's relevant suggestions and recommendations contained in its concluding observations adopted in 2001,<sup>9/</sup> as well as in the current ones, and urges it to undertake whatever relevant concrete measures may be necessary towards their implementation.

220. The Committee strongly urges the Hong Kong Special Administrative Region to extend the protection afforded by the proposed racial discrimination law to internal migrants from the Mainland, and to put a stop to the widespread discriminatory practices against them on the basis of their origin. The Committee further recommends that the relevant provisions of the existing immigration legislation governing entry into, period of stay, and departure from, the Hong Kong Special Administrative Region be amended to ensure full conformity and consistency with the new racial discrimination legislation.

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224. The Committee urges the State party to review the existing "two-week rule", with a view to eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers so that they are in line with those afforded to local workers, particularly with regard to wages and retirement benefits. The Committee recommends that the Hong Kong Special Administrative Region enable domestic helpers to acquire pension rights through their inclusion in the Mandatory Provident Fund Scheme.

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230. The Committee urges the Hong Kong Special Administrative Region to amend its legislation to provide for the right to education of all school-age children in its jurisdiction, including children of migrants without the legal right to remain in the Hong Kong Special Administrative Region.

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### Notes

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<sup>9/</sup> *Official Records of the Economic and Social Council, 2002, Supplement No. 2 (E/2002/22-EC.12/2001/17), chap. IV, paras. 189 to 210.*

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- China (Macao Special Administrative Region), ICESCR, E/2006/22 (2005) 38 at paras. 243, 245, 253 and 255.

243. The Committee is seriously concerned that migrant workers, who account for a significant proportion of the working population of the Macau Special Administrative Region, are excluded from the social welfare system.

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245. While welcoming efforts made by the Macau Special Administrative Region to enable the integration of children of migrants in the school system, the Committee notes with regret that education provided to children of migrant workers is not free of charge.

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253. The Committee recommends that the Macau Special Administrative Region take effective measures to ensure that all workers are entitled to adequate social security benefits, including migrant workers...

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255. The Committee recommends that the Macau Special Administrative Region strengthen its efforts to provide free compulsory education to all school-age children, including children of migrant workers.

### CEDAW

- Sri Lanka, CEDAW, A/57/38 part I (2002) 31 at paras. 292 and 293.

292. The Committee is concerned about the increasing number of women who migrate from Sri Lanka in search of work and find themselves in situations where they are vulnerable. Despite the progressive and protective measures taken by the State party, including mandatory registration and insurance coverage, these women are often subjected to abuse and sometimes death.

293. The Committee urges the State party to ensure the full and effective enforcement of the measures taken to protect women migrant workers, including preventing the activities of illegal employment agencies and ensuring that insurance covers the disabled and jobless after they return to Sri Lanka.



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- Denmark, CEDAW, A/57/38 part II (2002) 120 at paras. 343 and 344.

343. The Committee expresses concern about the situation of migrant, refugee and minority women in Denmark, including discrimination in education and employment and at the gender-based discrimination and violence that they experience.

344. The Committee urges the State party to take effective measures to eliminate discrimination against migrant, refugee and minority women. It encourages the State party to be proactive in its measures to prevent discrimination against migrant, refugee and minority women, both within their communities and in society at large, to combat violence against them, and increase their awareness of the availability of social services and legal remedies.

- Mexico, CEDAW, A/57/38 part III (2002) 205 at paras. 437 and 438.

437. In view of the growing number of Mexican women emigrating to other countries in search of greater job opportunities, the Committee is concerned that this may make them especially vulnerable to situations of exploitation or trafficking.

438. The Committee urges the State party to focus on the causes of that phenomenon by adopting measures to alleviate poverty and strengthen and promote the economic input of women, as well as fully guarantee the recognition and exercise of their rights. The Committee further encourages the State party to seek bilateral and multilateral agreements with the receiving countries.

- Switzerland, CEDAW, A/58/38 part I (2003) 20 at paras. 122 and 123.

122. The Committee expresses concern at the situation of migrant women in Switzerland, particularly the discrimination in education and employment they experience and the risk of exploitation and violence that they face. The Committee is concerned that foreign women sometimes encounter additional difficulties in obtaining access to health care and that the percentage of women with HIV/AIDS is increasing among foreign women, those from sub-Saharan Africa being the most affected. The Committee is also concerned about the special visa regulations for foreign cabaret dancers and the potential dangers and risks that their situation may entail. The Committee is further concerned that the State party has yet to carry out studies on the extent of discrimination against migrant women and the multiple discrimination they often face on the basis of their race, sex, ethnicity and religious affiliation.

123. The Committee urges the State party to take effective measures to eliminate

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discrimination against migrant women. It encourages the State party to be proactive in its measures to prevent discrimination against them, 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. The Committee recommends that foreign women's health needs, in particular as regards information on preventing HIV infection, be fully addressed. The Committee requests the State party to review and reconsider the special visa regulations for cabaret dancers and to study their *de facto* situation in the light of the potential dangers and risks that their situation may entail. It also requests the State party to take appropriate measures to protect the women concerned from all forms of exploitation and to take action aimed at changing men's and society's perception of women as sex objects. The Committee also urges the State party to conduct regular and comprehensive studies on discrimination against migrant women and to collect statistics on their situation in employment, education and health and on the various forms of violence they experience so as to enable the Committee to form a clear picture of their *de facto* situation.

- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 365 and 366.

365. While noting the improvement regarding the *de facto* situation of live-in caregivers through formal employment contracts, the Committee is concerned that the caregivers are allowed into the country only as temporary residents, they do not receive adequate social security and having to live in the homes of their employers may subject them to exploitation and abuse.

366. The Committee urges the State party to take further measures to improve the current live-in caregiver programme by reconsidering the live-in requirement, ensuring adequate social security protection and accelerating the process by which such domestic workers may receive permanent residency.

- Norway, CEDAW, A/58/38 part I (2003) 61 paras. 413-416, 419 and 420.

413. While acknowledging the adoption in 2001 of the State party's plan of action against racism and discrimination, the Committee expresses concern about the multiple discrimination faced by migrant, refugee and minority women with respect to access to education, employment and health care and exposure to violence.

414. The Committee urges the State party to take effective measures to eliminate discrimination against migrant, refugee and minority women and to further strengthen its efforts to combat xenophobia and racism. It also urges the State party to be proactive in its measures to prevent discrimination against these women, both within their communities and in society at large, and to increase their awareness of the availability of social services and

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legal remedies. The Committee recommends that the State party ensure that a gender dimension is included in legislation against ethnic discrimination.

415. The Committee is concerned about the existence of various obstacles to the integration of migrant and refugee women into Norwegian society...

416. The Committee recommends that the State party strengthen its efforts to, *inter alia*, enable and encourage migrant and refugee women, particularly those with care-giving responsibilities, to participate in Norwegian-language classes...

...

419. The Committee is concerned about the persistence of violence, including domestic violence, against women and children in Norway. It is further concerned that this violence, the extent of which is unknown, is regarded as falling into the private sphere. The Committee is furthermore concerned that a predominant and growing number of women who seek refuge in shelters for battered women are migrants...

420. The Committee urges the State party to intensify its efforts to address the issue of violence against women, including domestic violence, as an infringement of women's human rights. In particular, the Committee urges the State party to undertake appropriate measures and introduce laws in conformity with general recommendation 19 to prevent violence, prosecute and rehabilitate offenders, and provide support services and protection for victims...

- Costa Rica, CEDAW, A/58/38 part II (2003) 86 at paras. 62 and 63.

62. The Committee...notes with concern the precarious working and living conditions of women domestic workers, including migrant workers, as well as of salaried women workers, rural women, women in the informal sector and indigenous women.

63. ...The Committee...requests the State party to adopt the legislative, administrative or other measures needed to ensure that women domestic workers, including migrant workers, temporary wage earners, women in the informal sector and rural and indigenous women have access to social security and other employment benefits, including paid maternity leave.

- Ecuador, CEDAW, A/58/38 part II (2003) 122 at paras. 309 and 310.

309. Given the increasing numbers of Ecuadorian women taking refuge in foreign countries

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to escape from poverty and extreme poverty, the Committee is concerned at the fact that this situation makes it likely that emigrant women will be victims of various forms of violence, exploitation and trafficking. The Committee is likewise concerned at the vulnerability of women whose spouses emigrate to other countries. It is also concerned at the situation of Ecuadorian women living on the Ecuador-Colombia border and that of Colombian women who flee Colombia and take refuge in Ecuador, since they are also victims of violence of all kinds owing to the militarization of the border area and the application of “Plan Colombia”.

310. The Committee urges the State party to focus on the causes of this phenomenon and adopt measures to alleviate poverty and extreme poverty, and to protect migrant women and those who remain in Ecuador when their spouses emigrate, as well as women living on the Ecuador-Colombian border.

- New Zealand, CEDAW, A/58/38 part II (2003) 138 at paras. 425 and 426.

425. Taking note of the efforts made by the State party to combat discrimination against refugee and migrant women in New Zealand, the Committee expresses concern at the continuing discrimination suffered by immigrant, refugee and minority women and girls, based on their ethnic background, particularly with respect to education, health, employment, violence against women, and in regard to permanent residence status.

426. The Committee urges the State party to take effective measures to eliminate discrimination against refugee, migrant and minority women and girls, and to strengthen its efforts to combat xenophobia and racism in New Zealand. It also encourages the State party to be more proactive in its measures to prevent discrimination against these women and girls 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, and to provide for their needs with respect to education, employment and health care...

- Kuwait, CEDAW, A/59/38 part I (2004) 15 at para. 79.

79. The Committee requests the State party to recognize that violence against women constitutes a violation of the human rights of women under the Convention. It urges the State party to undertake the systematic collection of sex-disaggregated data on all forms of violence against women, including domestic violence, as well as research into the extent and root causes of such violence, including against women migrant workers and non-Kuwaiti women...

- Ethiopia, CEDAW, A/59/38 part I (2004) 42 at paras. 265 and 266.

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265. The Committee, while welcoming the establishment of a national committee on migration, is concerned about the increasing number of Ethiopian women migrating to other countries in search of work and finding themselves in situations where they are vulnerable to various forms of violence, exploitation and trafficking.

266. The Committee urges the State party to step up its efforts to protect women migrant workers; prevent the activities of illegal employment agencies; ensure that women are provided with adequate information on safe migration before departure; and conclude bilateral agreements with receiving countries. It also recommends that the State party consider acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Germany, CEDAW, A/59/38 part I (2004) 62 at paras. 394 and 395.

394. The Committee is concerned about the situation of migrant and minority women, including Sinti and Roma women, who suffer from multiple forms of discrimination based on sex, ethnic or religious background and race, and at the vulnerability of some of these women to trafficking and sexual exploitation. The Committee regrets the lack of specific information provided in the reports with regard to their access to health, employment and education, as well as various forms of violence committed against them and, in particular, data and information about forced marriages. The Committee is also concerned about the situation of some foreign women domestic workers in the households of diplomats.

395. The Committee urges the State party to take effective measures to eliminate discrimination against migrant and minority women, both in society at large and within their communities, and to respect and promote their human rights, through effective and proactive measures, including awareness-raising programmes. The Committee recommends that the State party continue to undertake research on the situation of migrant and minority women and girls...The Committee also recommends that the State party intensify efforts to protect the human rights of foreign women domestic workers in diplomatic households.

- Bangladesh, CEDAW, A/59/38 part II (2004) 134 at paras. 251 and 252.

251. While welcoming the lifting of the ban on overseas employment of women domestic workers which had been imposed in 1998, the Committee is concerned about the vulnerability of Bangladeshi women migrant workers whose rights are not adequately protected by the State party.

252. The Committee recommends the adoption of a comprehensive gender-sensitive

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migration policy and the conclusion of bilateral and multilateral agreements with destination countries, in order to ensure the promotion and protection of the human rights of Bangladeshi women migrant workers. The Committee also urges the State party to strengthen its information activities so as to ensure that potential women migrants are fully aware of their rights, as well as of the potential risks of such employment.

- Dominican Republic, CEDAW, A/59/38 part II (2004) 141 at para. 280.

280. The Committee congratulates the State party for signing the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime, in December 2000 and for passing and promulgating the Trading and Trafficking in Persons Act in 2003...

- Spain, CEDAW, A/59/38 part II (2004) 149 at paras. 338 and 339.

338. Noting that since 1999, there has been a quadrupling of immigration into Spain, the Committee is concerned about the multiple forms of discrimination migrant women, including those who are undocumented, may face by public authorities, private employers and individuals, as well as the difficulties in becoming integrated into Spanish society.

339. The Committee urges the State party to take effective measures to eliminate discrimination against migrant women, both within immigrant communities and in society at large, and to ensure that the women concerned are made aware of available social services and legal remedies and are being supported in accessing them.

- Italy, CEDAW, A/60/38 part I (2005) 51 at paras. 324, 325, 332 and 333.

324. While noting with appreciation the increase in the number of Italian women in the European Parliament, the Committee remains deeply concerned about the severe underrepresentation of women in political and public positions, including in elected bodies, the judiciary and at the international level...

325. The Committee encourages the State party to take sustained measures to increase the representation of women in elected and appointed bodies and in the judiciary and at the international level...It further encourages the State party to step up efforts to pass legislation under article 51 of the Constitution to increase the number of women in political and public positions, including through the use of quotas, and to ensure adequate representation in such positions of Roma and migrant women, and women from the south of the country...

...

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332. The Committee is concerned that certain groups of women, including Roma and migrant women, remain in a vulnerable and marginalized situation, especially in regard to education, employment, health and participation in public life and decision-making. The Committee is particularly concerned about the impact of Law 189/2002, which imposes far-reaching restrictions on migrant women workers, and about the absence of laws and policies concerning asylum-seekers and refugees, including lack of recognition of gender-related forms of persecution in determining refugee status.

333. The Committee urges the State party to take effective measures to eliminate discrimination against vulnerable groups of women, including Roma and migrant women, and to enhance respect for their human rights through all available means, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25...The Committee also encourages the State party to revisit the provisions of Law 189/2002 with a view to removing the current restrictions on migrant women, and to adopt laws and policies which recognize gender-related forms of persecution in the determination of refugee status.

- Ireland, CEDAW, A/60/38 part II (2005) 151 at paras. 386, 387, 394 and 395.

386. While acknowledging the efforts made to address violence against women, including legislative measures, the provision of refuges and rape crisis centres, and research and awareness-raising initiatives, the Committee is concerned about the prevalence of violence against women and girls, low prosecution and conviction rates of perpetrators, high withdrawal rates of complaints and inadequate funding of organizations that provide support services to victims...The Committee is furthermore concerned about violence suffered by women from marginalized and vulnerable groups, including Traveller women, migrant women, asylum-seeking and refugee women and women with disabilities.

387. The Committee urges the State party to take all necessary measures to combat violence against women in conformity with the Committee's general recommendation 19, to prevent violence, punish offenders and provide services for victims. It recommends that the State party adopt without delay its strategic plan and systematically monitor and regularly evaluate the plan's components, particularly in relation to marginalized and vulnerable women, including Traveller women, migrant women, asylum-seeking and refugee women and women with disabilities...

...

394. ...The Committee is...concerned about the precarious situation of migrant domestic workers, the vast majority of whom are women, who are excluded from the protection against discrimination extended to employees under the Equality Act, 2004.

395. ...The Committee calls on the State party to ensure that women domestic workers,

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including migrant women, are duly protected against discrimination.

### CAT

- Greece, CAT, A/60/44 (2004) 20 at paras. 46-48.

46. The Committee notes the following positive developments:

(a) The ongoing efforts by the State party to revise its legislation and adopt other necessary measures, so as to strengthen the respect for human rights in Greece and give effect to the Convention. In particular the Committee welcomes the following:

...

(vii) The circulars of the Chief of the Greek Police of July 2003 concerning the detention of undocumented migrants and that of November 2003 regarding the treatment of victims of trafficking;

...

47. The Committee notes that many of the concerns it expressed during the consideration of the third periodic report (A/56/44, para. 87) have not been adequately addressed, and will be reiterated in the present concluding observations. Consequently, the Committee expresses its concern at:

...

(c) Training provided to public officials which may be inadequate to provide an appropriate response to the numerous challenges with which they are faced, including undocumented migrants and asylum-seekers and victims of trafficking, many of whom are women and children;

...

48. The Committee recommends that the State party:

...

(d) Ensure that all personnel involved in the custody, detention, interrogation and treatment of detainees are trained with regard to the prohibition of torture and ill-treatment. Training should include developing skills needed to recognize the *sequelae* of torture and sensitization with respect to contact with particularly vulnerable persons in situations of risk;

...

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

107. The Committee notes the following positive developments:

...

(e) The publication of the foreign worker's manual;

...



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### CRC

- Andorra, CRC, CRC/C/114 (2002) 134 at paras. 528 and 529.

528. The Committee notes with concern that children of seasonal workers residing illegally in the State party may have difficulties in accessing health and education services.

529. In light of article 2 of the Convention, the Committee, while welcoming the information that the children of seasonal workers residing illegally in the State party are in practice provided with emergency health care, recommends that the State party take the necessary steps to allow these children access to basic and other social services such as health care and education.

- Switzerland, CRC, CRC/C/118 (2002) 78 at para. 324.

324. The Committee recommends that the State party:

(a) Strengthen and continue its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society, and all sectors and levels of Government, including initiatives to reach vulnerable groups, especially migrant and asylum-seeking children;

...

- Spain, CRC, CRC/C/118 (2002) 117 at paras. 494, 495, 509 and 511.

494. The Committee is concerned that the principle of non-discrimination is not fully implemented for children of Roma origin, children of migrant workers, particularly when they are not legal, and unaccompanied foreign children, especially with regard to their access to adequate health care and educational facilities.

495. The Committee recommends that the State party:

(a) Monitor the situation of children, in particular those belonging to the above-mentioned vulnerable groups, who are exposed to discrimination; and

(b) Develop, on the basis of the results of this monitoring, comprehensive strategies containing specific and well-targeted actions aimed at eliminating all forms of discrimination.

...

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509. The Committee notes with concern:

(a) The high rate of truancy and school drop-out and the difficult school integration of Roma children, children belonging to migrant families or children living in socio-economically deprived areas;

(b) That some children belonging to migrant families, particularly girls, do not complete their compulsory education or have great difficulties in attending school;

...

511. In light of articles 28 and 29 of the Convention, the Committee recommends that the State party:

(a) Ensure regular attendance at schools and the reduction of truancy and drop-out rates, especially with regard to Roma children and children belonging to migrant families;

...

- The Netherlands (Antilles), CRC, CRC/C/118 (2002) 129 at paras. 557 and 558.

557. While the Committee takes note of the State party's efforts in the area of birth registration, including the three-months "grace period" given to undocumented migrants to register themselves, the Committee remains concerned that a large percentage of children, especially those from migrant families, are not registered and thus have not been able to enjoy their rights fully.

558. The Committee recommends that the Netherlands Antilles, in light of article 7 of the Convention, expand systems and procedures for the immediate registration of the birth of all children and campaign to raise awareness of the importance of birth registration. Special emphasis should be placed on the registration of children belonging to the most vulnerable groups, including children belonging to migrant families.

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 81 and 82.

81. The Committee, while noting the increase in school enrolment for both primary and secondary education, remains concerned at the limited access to education and at the high drop out and repetition rates, especially at secondary school level, which affect, in particular, children from marginalized urban and rural areas, indigenous children and children from migrant families, particularly illegal migrants...

82. In light of articles 28 and 29 of the Convention, the Committee recommends that the State party:

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...

(b) Enforce the Social Plan of Education in order to ensure regular attendance at school and the reduction of drop out rates, especially with regard to the most vulnerable children;

...

- Republic of Moldova, CRC, CRC/C/121 (2002) 89 at paras. 410 and 411.

410. The Committee welcomes the adoption of the Preliminary Poverty Reduction Strategy in April 2002 and other efforts to support families, but remains concerned at the deteriorating living standards affecting in particular families with children, the inadequate social security system and the large number of parents migrating abroad to find work.

411. The Committee recommends that the State party:

(a) Undertake all necessary measures to support parents and families, including single-parent families, in their child-rearing responsibilities as part of its full implementation of the National Strategy for Children and Families;

(b) Fully implement the Preliminary Poverty Reduction Strategy, *inter alia* with a view to providing an adequate level of food security and social protection for children at risk and to improving and making transparent the payments of allowances to families with children.

- Israel, CRC, CRC/C/121 (2002) 131 at paras. 568, 569, 576 and 577.

568. Against the backdrop of a declining economy, the Committee is concerned that the proposed budget cuts in social spending will negatively affect the economic, social and cultural rights of children belonging to the most vulnerable groups.

569. The Committee recommends that the State party:

(a) Ensure the economic, social and cultural rights of all children, to the maximum extent of available resources;

(b) Continue to prioritize and target budgetary allocation for children belonging to the most vulnerable groups (e.g. Israeli Arab children, Bedouins, children of foreign workers);

...

576. The Committee is concerned that discrimination, contrary to article 2 of the Convention, persists in the State party, and that non-discrimination is not expressly guaranteed under the Constitution. In particular, the Committee is concerned about discrimination against girls and women, especially in the context of religious laws,

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discrimination on religious grounds, inequalities in the enjoyment of the economic, social and cultural rights (i.e. access to education, health care and social services) of Israeli Arabs, Bedouins, Ethiopians and other minorities, children with disabilities and children of foreign workers, and of the rights and freedoms of Palestinian children in the occupied territories.

577. The Committee recommends that the State party:

- (a) Take effective measures, including enacting or rescinding legislation where necessary, to ensure that all children enjoy all the rights set out in the Convention without discrimination, in accordance with article 2;
- (b) Strengthen its efforts with respect to affirmative-action initiatives;
- (c) Carry out comprehensive public education campaigns to prevent and combat negative societal attitudes in this regard;
- (d) Mobilize religious leaders to support such efforts;
- (e) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (General Assembly resolution 45/158, annex).

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 109, 110, 136 and 137.

109. The Committee notes with concern the absence of information in the State party's report on racial discrimination, and the limited amount of information regarding acts of discrimination against children from single-parent families, children born out of wedlock, children with disabilities, girls and migrant families...

110. The Committee...recommends that the State party undertake all necessary proactive measures to combat societal discrimination, in particular against children from single-parent families, children born out of wedlock, children with disabilities, children of migrant workers and girls through, *inter alia*, public education and awareness campaigns.

...

136. The Committee is concerned that education and social welfare laws and regulations do not include specific provisions providing for the welfare and rights of foreign children, in particular those of undocumented migrant workers.

137. The Committee recommends that the State party:

- (a) Amend domestic laws, in particular those on education and social welfare, to include

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specific provisions which ensure equal access to services for all foreign children, including those of undocumented migrant workers;

(b) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

- Sri Lanka, CRC, CRC/C/132 (2003) 48 at paras. 257 and 258.

257. The Committee notes the new programme for children of migrant workers undertaken by the Bureau of Foreign Employment, yet it is concerned that families of migrant workers receive little or no assistance with their child-rearing responsibilities while they are working abroad.

258. The Committee recommends that the State party develop a comprehensive policy to support the families and caregivers of children of migrant workers in their child-rearing responsibilities and limit the institutionalization of children of migrant workers to measures of last resort, while promoting the placement of all children in need of alternative care with their extended families or other family types of care whenever possible.

- Libyan Arab Jamahiriya, CRC, CRC/C/132 (2003) 74 at paras. 370 and 371.

370. The Committee is concerned that xenophobia, particularly towards migrant workers, persists in the State party and that it is harmful to the child's developing respect for human rights, including the right to non-discrimination.

371. The Committee recommends that the State party:

(a) Take all appropriate measures, including comprehensive public education campaigns, to prevent and combat negative societal attitudes towards migrant workers;

(b) Take due regard of the Human Rights Committee's general comment No. 23 on the rights of minorities...

(c) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

...

- Kazakhstan, CRC, CRC/C/132 (2003) 129 at para. 644.

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644. The Committee welcomes the information provided on the new bill on refugees and notes the efforts of the State party relating to the repatriation of ethnic Kazakhs in this regard; however, the Committee is concerned that:

...

(c) The treatment, including nutritional and medical care, provided for illegal migrants, including children, arriving in western Kazakhstan seeking work is inadequate;

...

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 94 and 95.

94. The Committee values the exemplary literacy rates and high level of basic education in the State party and welcomes the numerous initiatives to promote quality education, both in Canada and at the international level...The Committee nevertheless reiterates the concern of the Committee on the Elimination of Racial Discrimination (A/57/18, para. 337) about allegations that children of migrants with no status are being excluded from school in some provinces...

95. The Committee recommends that the State party further improve the quality of education throughout the State party in order to achieve the goals of article 29, paragraph 1, of the Convention and the Committee's general comment No. 1 on the aims of education by, *inter alia*:

(a) Ensuring that free quality primary education that is sensitive to the cultural identity of every child is available and accessible to all children, with particular attention to children in rural communities, Aboriginal children and refugees or asylum-seekers, as well as children from other disadvantaged groups and those who need special attention, including in their own language;

...

- The Netherlands (Netherlands and Aruba), CRC, CRC/C/137 (2004) 63 at paras. 345, 346, 352, 353, 366 and 367.

345. ...In Aruba, the Committee is concerned about discrimination against children of migrant families, in particular, in accessing services and the fact that disability is not considered a ground for discrimination as defined by the Constitution.

346. The Committee recommends that the State party increase its efforts to ensure the implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups... It

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further recommends that the State party ensure that children of migrant families in Aruba have equal access to education, health and other services and that there is legislation to protect children with disabilities against discrimination.

...

352. The Committee shares the State party's concern that a significant number of births are not registered in Aruba.

353. The Committee recommends that the State party strengthen efforts in Aruba to ensure that the births of all children are registered, including those of undocumented migrants. In this regard, the Committee suggests that the State party explore cooperation between the regions of Aruba and the Netherlands Antilles and possibly other countries in the region.

...

366. The Committee notes the information provided by the delegation that efforts will be strengthened in the Netherlands and Aruba to prevent and assist school dropouts and the intention to expand bilingual education (Papiementu and Dutch) to secondary schools in Aruba. However, the Committee is concerned that primary education is not compulsory in Aruba and that early childhood education is not universally available throughout the State party.

367. The Committee recommends that the State party:

...

(c) In Aruba, expedite the adoption of the National Ordinance on Compulsory Education and ensure that it is enforced, including for children of undocumented migrants;

...

- Japan, CRC, CRC/C/137 (2004) 116 at paras. 633 and 634.

633. The Committee is concerned that a child of a Japanese father and foreign mother cannot obtain Japanese citizenship unless the father has recognized that child before its birth, which has, in some cases, resulted in some children being stateless. It is additionally concerned that undocumented migrants are unable to register the birth of their children, and that this has also resulted in cases of statelessness.

634. The Committee recommends that the State party amend its Nationality Law and all other relevant legislation and regulations to ensure conformity with article 7 of the Convention so that no child born in Japan should become stateless.

- France, CRC, CRC/C/140 (2004) 124 at paras. 621 and 622.

621. The Committee welcomes the information contained in the State party's report related

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to the protection of mothers, infants and school-age children. However, the Committee notes that this aspect of health care and services is the responsibility of departments, and, in this respect, is concerned at possible inequalities among the various regions. The Committee is concerned, in particular, at the:

...

(b) “Conditioned” access to health care by undocumented migrants;

...

622. The Committee recommends that the State party:

(a) Strengthen its efforts to ensure the provision of adequate and sustainable allocation of resources (human and financial), including for training of sufficient numbers of health-care professionals, provision of adequate salaries for health-care workers, and investments in health-care infrastructure, especially in the most disadvantaged areas;

...

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 139, 140 and 147-150.

139. With reference to the high number of overseas Philippine workers, the Committee is concerned about children born abroad to Philippine migrant workers. Due to the non-registration of these children, they are deprived of their right to name, nationality and identity as well as basic services.

140. The Committee recommends to the State party that it encourage and facilitate parents, irrespective of their residence status, to register their children born abroad. The Committee also recommends that the State party ensure that unregistered children without official documentation are allowed access to basic services, such as health and education, while waiting to be properly registered. In addition, the Committee recommends to the State party that it raise awareness among parents about the need and value of birth registration.

...

147. As regards parental responsibilities for the upbringing and development of the child, the Committee is concerned about many Philippine children living with loose family ties due to the fact that at least one parent is working overseas.

148. The Committee calls for effective implementation of the Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and for Other Purposes (Republic Act No. 8042) and recommends to the State party that it take all necessary measures to ensure that overseas Philippine workers, equally women and men, are able to meet their parental responsibilities, including through concluding bilateral agreements with the countries of destination, and facilitate family reunification and a stable family environment for the upbringing of children. In addition, the Committee recommends



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that the State party continue its efforts to develop and provide child-sensitive family counselling services for overseas Philippine workers and their children.

149. While noting the high number of Philippine children with a parent or both parents working overseas, the increasing number of Philippine children born abroad during overseas migration and the cases where paternity has not been established, the Committee is concerned that the State party has not sufficiently ensured the recovery of maintenance in practice. The Committee is concerned about the insufficient implementation of domestic laws, for example the relevant provisions of the Family Code and the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act, and the enforcement of court orders in this respect. In addition, the Committee is concerned at the actual implementation of, and in some cases, the absence of bilateral agreements for reciprocal enforcement of maintenance orders.

150. The Committee recommends that the State party secure in practice the recovery of maintenance for the child. As regards parent(s) working abroad, the Committee encourages the State party to conclude bilateral agreements for reciprocal enforcement of maintenance orders and consider establishing a fund to secure the payment of maintenance in those cases where the recovery of maintenance fails.

- Ecuador, CRC, CRC/C/150 (2005) 91 at paras. 427 and 428.

427. The Committee is concerned that increasing emigration by Ecuadorians in recent years has had a negative impact on the exercising of parental responsibilities in the upbringing and development of the child.

428. The Committee recommends that the State party undertake all necessary measures to ensure that overseas Ecuadorian workers, equally men and women, are able to meet their parental responsibilities, including through strengthening of bilateral agreements with the countries of destination and the promotion of family reunification and stable family environments for the upbringing of children in accordance with articles 18 and 10 of the Convention. The Committee also encourages the State party to strengthen the provision of child-sensitive family counselling services for overseas Ecuadorian workers and their children.

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 649 and 650.

649. The Committee is concerned at the high number of families migrating abroad and at the possible negative consequences resulting from this phenomenon on the full enjoyment by children of their rights.

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650. The Committee recommends that the State party carry out a comprehensive study on the situation of children of migrant families with the aim of developing adequate strategies to ensure their protection and the full enjoyment of their rights.

- Costa Rica, CRC, CRC/C/150 (2005) 149 at paras. 687 and 688.

687. ...The Committee is concerned...at the limited access of indigenous children, migrant children and those living in rural areas, to basic education and health services, and at their low standard of living. The Committee also regrets the absence of information in the State party's report on the implementation of its previous recommendation regarding the protection of children of migrant families in irregular situations against discrimination. While welcoming the revocation by resolution No. 008857-99 of articles 6 and 7 of Executive Decree (Decreto ejecutivo) No. 21989-MEP-MTSS, the Committee is concerned at information received whereby migrant children are still neither eligible for scholarships, nor entitled to take part in students' councils.

688. ...The Committee...recommends that the State party provide information on the number of migrant children who benefited from scholarships since the adoption of resolution No. 008857-99. In addition, the Committee recommends that the State party take steps to disseminate the contents of the resolution to the public at large. The Committee also recommends that the State party take appropriate measures to ensure the right of migrant children to take part in students' councils...