

CULTURE - CULTURAL PARTICIPATION

II. GENERAL COMMENTS AND RECOMMENDATIONS

- CERD General Recommendation XXX (Sixty-fifth session, 2004): Discrimination Against Non-Citizens, A/59/18 (2004) 93 at para. 37.

...

[The Committee recommends]...that the States parties to the Convention, as appropriate to their specific circumstances, adopt the following measures:

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37. Take the necessary measures to prevent practices that deny non-citizens their cultural identity, such as legal or *de facto* requirements that non-citizens change their name in order to obtain citizenship, and to take measures to enable non-citizens to preserve and develop their culture;

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- ICCPR General Comment 28 (Sixty-eighth session, 2000): Article 3: Equality of Rights Between Men and Women, A/55/40 vol. I (2000) 133 at para. 13.

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13. States parties should provide information on any specific regulation of clothing to be worn by women in public. The Committee stresses that such regulations may involve a violation of a number of rights guaranteed by the Covenant, such as: article 26, on non-discrimination; article 7, if corporal punishment is imposed in order to enforce such a regulation; article 9, when failure to comply with the regulation is punished by arrest; article 12, if liberty of movement is subject to such a constraint; article 17, which guarantees all persons the right to privacy without arbitrary or unlawful interference; articles 18 and 19, when women are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression; and, lastly, article 27, when the clothing requirements conflict with the culture to which the woman can lay a claim.

- ICESCR General Comment 15 (Twenty-ninth session, 2002): The Right to Water (arts. 11 and 12 of the Covenant), E/2003/22 (2002) 120 at para. 6.

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6. Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health).

Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life). Nevertheless, priority in the

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allocation of water must be given to the right to water for personal and domestic uses. Priority should also be given to the water resources required to prevent starvation and disease, as well as water required to meet the core obligations of each of the Covenant rights.^{e/}

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Notes

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^{e/} See also paragraph 25 (c) of the Plan of Implementation of the World Summit on Sustainable Development (*Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.I), resolution 2, annex).

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- ICESCR General Comment 16 (Thirty-fourth session, 2005): Article 3: The Equal Right of Men and Women to the Enjoyment of all Economic, Social and Cultural Rights, E/2006/22 (2005) 116 at para. 31.

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31. Article 15, paragraph 1 (a) and (b), of the Covenant requires States parties to recognize the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress. Implementing article 3, in relation to article 15, paragraph 1 (a) and (b), requires, *inter alia*, overcoming institutional barriers and other obstacles, such as those based on cultural and religious traditions, which prevent women from fully participating in cultural life, science education and scientific research, and directing resources to scientific research relating to the health and economic needs of women on an equal basis with those of men.

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- CEDAW General Recommendation 25 (Thirtieth session, 2004): Article 4, Paragraph 1: Temporary Special Measures, A/59/38 part I (2004) 78 at para. 38.

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38. States parties are reminded that temporary special measures should be adopted to accelerate the modification and elimination of cultural practices and stereotypical attitudes and behaviour that discriminate against or are disadvantageous for women. Temporary special measures should also be implemented in the areas of credit and loans, sports, culture and recreation, and legal awareness. Where necessary, such measures should be directed at women subjected to multiple discrimination, including rural

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women.

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- CRC General Comment 1 (Twenty-sixth session, 2001): Article 29 (1): The Aims of Education, CRC/C/103 (2001) 150 at para. 4.

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4. Article 29 (1) states that the States parties agree that education should be directed to a wide range of values. This agreement overcomes the boundaries of religion, nation and culture built across many parts of the world. At first sight, some of the diverse values expressed in article 29 (1) might be thought to be in conflict with one another in certain situations. Thus, efforts to promote understanding, tolerance and friendship among all peoples, to which paragraph (1) (d) refers, might not always be automatically compatible with policies designed, in accordance with paragraph (1) (c), to develop respect for the child's own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own. But in fact, part of the importance of this provision lies precisely in its recognition of the need for a balanced approach to education and one which succeeds in reconciling diverse values through dialogue and respect for difference. Moreover, children are capable of playing a unique role in bridging many of the differences that have historically separated groups of people from one another.

- CRC General Comment 2 (Thirty-first session, 2002): The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child, A/59/41 (2004) 82 at paras. 8 and 15.

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8. NHRIs [national human rights institutions] should, if possible, be constitutionally entrenched and must at least be legislatively mandated. It is the view of the Committee that their mandate should include as broad a scope as possible for promoting and protecting human rights, incorporating the Convention on the Rights of the Child, its Optional Protocols and other relevant international human rights instruments - thus effectively covering children's human rights, in particular their civil, political, economic, social and cultural rights. The legislation should include provisions setting out specific functions, powers and duties relating to children linked to the Convention on the Rights of the Child and its Optional Protocols. If the NHRI was established before the existence of the Convention, or without expressly incorporating it, necessary arrangements, including the enactment or amendment of legislation, should be put in place so as to ensure conformity of the institution's mandate with the principles and

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provisions of the Convention.

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15. NHRIs should be geographically and physically accessible to all children. In the spirit of article 2 of the Convention, they should proactively reach out to all groups of children, in particular the most vulnerable and disadvantaged, such as (but not limited to) children in care or detention, children from minority and indigenous groups, children with disabilities, children living in poverty, refugee and migrant children, street children and children with special needs in areas such as culture, language, health and education. NHRI legislation should include the right of the institution to have access in conditions of privacy to children in all forms of alternative care and to all institutions that include children.

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- CRC General Comment 4 (Thirty-third session, 2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, A/59/41 (2004) 102 at para. 41(c).

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41. In accordance with articles 24, 39 and other related provisions of the Convention, States parties should provide health services that are sensitive to the particular needs and human rights of all adolescents, paying attention to the following characteristics:

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(c) *Acceptability*. While fully respecting the provisions and principles of the Convention, all health facilities, goods and services should respect cultural values, be gender sensitive, be respectful of medical ethics and be acceptable to both adolescents and the communities in which they live;

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- CRC General Comment 6 (Thirty-ninth session, 2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, A/61/41 (2005) 15 at para. 42.

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42. The unaccompanied or separated child should be registered with appropriate school authorities as soon as possible and get assistance in maximizing learning opportunities. All unaccompanied and separated children have the right to maintain their cultural identity and values, including the maintenance and development of their native language...

- CERD General Recommendation XX (Forty-eighth session, 1996): Article 5:

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Non-Discriminatory Implementation of Rights and Freedoms, A/51/18 (1996), 124. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.

- CERD General Recommendation XXIII (Fifty-first session 1997): The Rights of Indigenous Peoples, A/52/18 (1997) 122 at paras. 3 and 4(a), (c) and (e). For text of General Recommendation, see **INDIGENOUS PEOPLES**.
- CERD General recommendation XXXI (Sixty-seventh session, 2005): The Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, A/60/18 (2005) 98 at paras. 5, 26, 27 and 38. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- ICCPR General Comment 23 (Fiftieth session, 1994): Article 27: The Rights of Minorities, A/49/40 vol. I (1994) 107 at paras. 6.2 and 7. For text of General Comment, see **EQUALITY AND DISCRIMINATION - MINORITY RIGHTS**.
- ICESCR General Comment 4 (Sixth session, 1991): Article 11 (1): The Right to Adequate Housing, E/1992/23 (1991) 114 at para. 8(g). For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- ICESCR General Comment 5 (Eleventh session, 1994): Persons with Disabilities, E/1995/22 (1994) 99 at paras. 36 and 37. For text of General Comment, see **DISABILITY**.
- ICESCR General Comment 6 (Thirteenth session, 1995): The Economic, Social and Cultural Rights of Older Persons, E/1996/22 (1995) 97 at paras. 38-40. For text of General Comment, see **EQUALITY AND DISCRIMINATION - OLD AGE**.