

# EQUALITY AND DISCRIMINATION - EQUALITY BEFORE THE LAW

## II. GENERAL COMMENTS AND RECOMMENDATIONS

- CERD General Recommendation XIV (Forty-second session, 1993): On Article 1, Paragraph 1, of the Convention, A/48/18 (1993) 114 at para. 1.

1. Non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitutes a basic principle in the protection of human rights. The Committee wishes to draw the attention of States parties to certain features of the definition of racial discrimination in article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination. It is of the opinion that the words "based on" do not bear any meaning different from "on the grounds of" in preambular paragraph 7. A distinction is contrary to the Convention if it has either the purpose or the effect of impairing particular rights and freedoms. This is confirmed by the obligation placed upon States parties by article 2, paragraph 1 (c), to nullify any law or practice which has the effect of creating or perpetuating racial discrimination.

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

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

...  
18. Ensure that non-citizens enjoy equal protection and recognition before the law and in this context, to take action against racially motivated violence and to ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation for any damage suffered as a result of such violence;

- 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. 9.

...  
9. According to article 3, States parties must respect the principle of equality in and before the law. The principle of equality in the law must be respected by the legislature when adopting laws, by ensuring that those laws further equal enjoyment of economic, social and cultural rights by men and women. The principle of equality before the law

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must be respected by administrative agencies, and courts and tribunals, and implies that those authorities must apply the law equally to men and women.

...

- CEDAW General Recommendation 19 (Eleventh session, 1992): Violence Against Women, A/47/38 (1992) 5 at para. 7(e).

...

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

...

- (e) The right to equal protection under the law...

- CERD General Recommendation XXIX (Sixty-first session, 2002): On Article 1, Paragraph 1, of the Convention (Descent), A/57/18 (2002) 111 at para. u. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- 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 preamble. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- ICCPR General Comment 13 (Twenty-first session, 1984): Article 14: Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law, A/39/40 (1984) 143 at paras. 1-4. For text of General Comment, see **LEGAL RIGHTS - CRIMINAL - Right to a Fair and Public Hearing**.
- ICCPR General Comment 18 (Thirty-seventh session, 1989): Non-Discrimination, A/45/40 vol. I (1990) 173 at paras. 9 and 12. For text of General Comment, see **EQUALITY AND DISCRIMINATION - GENERAL**.
- ICCPR General Comment 23 (Fiftieth session, 1994): Article 27: The rights of Minorities, A/49/40 vol. I (1994) 107 at paras. 2 and 4. For text of General Comment, see

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### **EQUALITY AND DISCRIMINATION - MINORITY RIGHTS.**

- 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 paras. 5 and 18. For text of General Comment, see **EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General.**
- CEDAW General Recommendation 21 (Thirteenth session, 1994): Equality in Marriage and Family Relations, A/49/38 (1994) 1 at paras. 6-10, 25-35 and 48-50. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - FAMILY.**