

EQUALITY AND DISCRIMINATION - EMPLOYMENT

II. GENERAL COMMENTS AND RECOMMENDATIONS

- ICCPR General Comment 31 (Eightieth Session, 2004): Article 2: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, A/59/40 (2004) 175 at para. 8.

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8. The article 2, paragraph 1, obligations are binding on States parties and do not, as such, have direct horizontal effect as a matter of international law. The Covenant cannot be viewed as a substitute for domestic criminal or civil law. However, the positive obligations on States parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights insofar as they are amenable to application between private persons or entities. There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States parties of those rights, as a result of States parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. States are reminded of the interrelationship between the positive obligations imposed under article 2 and the need to provide effective remedies in the event of breach under article 2, paragraph 3. The Covenant itself envisages in some articles certain areas where there are positive obligations on States parties to address the activities of private persons or entities. For example, the privacy-related guarantees of article 17 must be protected by law. It is also implicit in article 7 that States parties have to take positive measures to ensure that private persons or entities do not inflict torture or cruel, inhuman or degrading treatment or punishment on others within their power. In fields affecting basic aspects of ordinary life such as work or housing, individuals are to be protected from discrimination within the meaning of article 26.

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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. 90.

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90. Once it has been determined that a separated or unaccompanied child will remain in the community, the relevant authorities should conduct an assessment of the child's situation and then, in consultation with the child and his or her guardian, determine the appropriate long-term arrangements within the local community and other necessary measures to facilitate such integration. The long-term placement should be decided in the best interests of the child and, at this stage, institutional care should, wherever possible, serve only as a last

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resort. The separated or unaccompanied child should have the same access to rights (including to education, training, employment and health care) as enjoyed by national children. In ensuring that these rights are fully enjoyed by the unaccompanied or separated child, the host country may need to pay special attention to the extra measures required to address the child's vulnerable status, including, for example, through extra language training.

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- CERD General Recommendation XX (Forty-eighth session, 1996): Article 5: 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 XXVII (Fifty-seventh session, 2000): Discrimination Against Roma, A/55/18 (2000) 154 at paras. 27-29. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- CERD General Recommendation XXIX (Sixty-first session, 2002): On Article 1, Paragraph 1, of the Convention (Descent), A/57/18 (2002) 111 at paras. a, f, l, o, jj and kk. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION**.
- CERD General Recommendation XXX (Sixty-fifth session, 2004): Discrimination Against Non-Citizens, A/59/18 (2004) 93 at paras. 15, 29 and 33-35. For text of General Recommendation, see **ALIENS - GENERAL**.
- 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. 31. For text of General Comment, see **EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General**.
- ICESCR General Comment 5 (Eleventh session, 1994): Persons with Disabilities, E/1995/22 (1994) 99 at paras. 20-22 and 25. For text of General Comment, see **DISABILITY**.
- ICESCR General Comment 16 (Thirty-fourth session, 2005): Article 3: The Equal Right of

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Men and Women to the Enjoyment of all Economic, Social and Cultural Rights, E/2006/22 (2005) 116 at paras. 11, 23 and 24. For text of General Comment, see **EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General**.

- CEDAW General Recommendation 13 (Eighth session, 1989): Equal Remuneration for Work of Equal Value, A/44/38 (1989) 76. For text of General Recommendation, see **WORK - EQUALITY IN THE WORKPLACE**.
- CEDAW General Recommendation 16 (Tenth session, 1991): Unpaid Women Workers in Rural and Urban Family Enterprises, A/46/38 (1991) 5. For text of General Recommendation, see **WORK - EQUALITY IN THE WORKPLACE**.
- CEDAW General Recommendation 17 (Tenth session, 1991): Measurement and Quantification of the Unremunerated Domestic Activities of Women and Their Recognition in the Gross National Product, A/46/38 (1991) 6. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General**.
- CEDAW General Recommendation 19 (Eleventh session, 1992): Violence Against Women, A/47/38 (1992) 5 at paras. 7(h), 17, 18 and 24 (j), (p) and (t)(i). For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - Violence Against Women**.
- CEDAW General Recommendation 25 (Thirtieth session, 2004): Article 4, Paragraph 1: Temporary Special Measures, A/59/38 part I (2004) 78 at paras. 9, 22, 23, 31, 32 and 37. For text of General Recommendation, see **EQUALITY AND DISCRIMINATION - TEMPORARY SPECIAL MEASURES (AFFIRMATIVE ACTION)**.