

## **EQUALITY AND DISCRIMINATION - GENERAL**

### **IV. CONCLUDING OBSERVATIONS**

#### **CERD**

- Mexico, CERD, A/46/18 (1991) 83 at para. 363.

The economic and social disparities between different categories of the population have led to serious discrimination which ought to be remedied, even if it is not of a directly racist character.

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

#### *Paragraph 376*

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

#### *Paragraph 377*

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

#### *Paragraph 380*

The State party should take steps to: guarantee the enjoyment by individuals belonging to vulnerable groups of foreigners, including foreign domestic servants, of the rights enshrined in the Convention without any discrimination; eliminate discrimination deriving from the dual system of citizenship; revise the Penal Code in order to introduce specific legislation to implement the provisions of article 4 of the Convention in accordance with General Recommendations VIII and XV; guarantee the right of recourse in courts to victims of discrimination; and implement the provisions of article 7 of the Convention, in particular through adequate training in human rights norms for law enforcement personnel in light of General Recommendation XIII .

- United Kingdom of Great Britain and Northern Ireland, CERD, A/48/18 (1993) 73 at para. 418.

In the case of Hong Kong, concern is expressed at the discriminatory provisions of the British

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Nationality (Hong Kong) Act of 1990 in accordance with which the authorities might register as British citizens only 50,000 "key people."

- Yugoslavia (Serbia and Montenegro), CERD, A/48/18 (1993) 95 at para. 542.

Non-discrimination in the enjoyment of fundamental, civil, political, economic, social and cultural rights must be effectively guaranteed in law and actively protected in practice if further ethnic unrest is to be avoided. In no way are unilateral trends towards separatism or secession encouraged. It is noted that separatism could best be discouraged by the active promotion and protection of minority rights and inter-ethnic tolerance.

- France, CERD, A/49/18 (1994) 20 at para. 145.

Concern is expressed over procedures concerning identity controls which confer on the police, for preventive reasons, broad discretion in checking the identity of foreigners in public, a measure which, in practice, could encourage discrimination. Concern is also expressed that the law enforcement services should reflect the ethnic diversity of the population and that adequate training should be organized with respect to racial discrimination.

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

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

- Sudan, CERD, A/49/18 (1994) 68 at para. 471.

Further to the Committee's previous concluding observations, concern continues regarding the dichotomy between legal provisions and their actual application. It is noted that continuing social and economic disparities between the northern and southern populations may constitute *de facto* discrimination and obstacles to the resolution of the ongoing conflict.

- Cyprus, CERD, A/50/18 (1995) 23 at para. 74.

Grave concern is expressed at the deprivation of the specific rights guaranteed under the Convention of a great number of Cypriots due to the Turkish occupation of part of the territory of Cyprus. The

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call for an end to this totally unacceptable state of affairs is reiterated.

- Croatia, CERD, A/50/18 (1995) 36 at paras. 175 and 176.

### *Paragraph 175*

The process of democratic institution building should proceed with great urgency, and the provisional court of human rights should speedily commence activity. The State party should ensure that laws and regulations concerning, *inter alia*, naturalization, acquisition of citizenship, determination of refugee status and tenure of rented accommodation are implemented in a transparent non-discriminatory manner in full conformity with the provisions of the Convention. Any victims of a discriminatory application of such rules and regulations in violation of the terms of the Convention should receive redress, to the extent that this is possible.

### *Paragraph 176*

The State party should ensure that it administers justice in a manner consistent with its obligations under the Convention and that it speedily prosecutes all alleged offences which appear to be directed against persons because of their racial, ethnic or religious origins. The State party should identify any miscarriages of justice which may have occurred and been motivated by the ethnic origin of the defendants and should redress any injustice done.

- Peru, CERD, A/50/18 (1995) 41 at para. 199.

Concern is expressed that the socio-economic conditions of certain ethnic groups, particularly of indigenous communities living in rural areas and of indigenous peoples, as well as Peruvians of non-European origin in urban society, remain disadvantageous compared to those of the white population in urban areas. It is further noted with concern that some effects of the economic and social policy of the Government threaten the enjoyment of the social and economic rights of persons belonging to indigenous communities.

- Yugoslavia (Serbia and Montenegro), CERD, A/50/19 (1995) 48 at para. 238.

Ethnic discrimination against groups, including the Muslim community of Sandjak and the Bulgarian community in Serbia, is of concern. Note is taken of recent acts of discrimination perpetrated against these groups and of the failure of the State party to bring such actions to an end or to have them investigated and prosecuted.

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- Nicaragua, CERD, A/50/18 (1995) 89 at paras. 533 and 535.

### *Paragraph 533*

The realization of economic and social rights is a matter of continuous concern. In particular, the so-called structural adjustment measures and the privatization of State property have had negative consequences for the enjoyment of the economic, social and cultural rights of the Nicaraguan people, especially by its most vulnerable sectors and the indigenous communities.

### *Paragraph 535*

Concern is expressed at the ratio of communal land to private land in the autonomous regions, with particular regard to mining rights, and at inequalities in the sharing of the benefits of the exploitation of natural resources in the autonomous territories between the regional and the central authorities.

- Russian Federation, CERD, A/51/18 (1996) 25 at para. 153.

It is strongly recommended that the State Party urgently take all measures to restore peace in Chechnya and to ensure full protection of human rights in the region. It is strongly recommended that the Government take all steps to ensure the full respect of fundamental human rights in the region, without discrimination. Persons responsible for massive, gross and systematic human rights violations and gross violations of international humanitarian law should be held responsible and prosecuted.

- Finland, CERD, A/51/18 (1996) 29 at para. 192.

In order to fight discrimination more efficiently, special attention should be paid in schools to human rights issues and especially to minority issues.

- Spain, CERD, A/51/18 (1996) 32 at paras. 203 and 205.

### *Paragraph 203*

The Gypsy Development Programme, set up to improve the situation of the Gypsies, in particular in the fields of education, promotion of the Gypsy culture, housing and employment, and conducted in collaboration with Gypsy associations, is noted with satisfaction. The Self-Regulating Agreement between the Ministry of Social Affairs and the mass media, concluded in order to promote a positive and non-discriminatory image of the Gypsy community, is viewed as an original and positive measure.

### *Paragraph 205*

Concern is expressed over the increasing manifestation of racism, xenophobia and discrimination

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

- Brazil, CERD, A/51/18 (1996) 45 at paras. 302 and 303.

### *Paragraph 302*

The fact that illiterate citizens, who are found especially among the indigenous, black and mestizo populations, and other vulnerable groups cannot be elected in political elections is contrary to the spirit of article 5 (c) of the Convention.

### *Paragraph 303*

Particular note is taken of the fact that the indigenous populations encounter serious discrimination in regard to their civil, political, economic, social and cultural rights. Special concern is expressed about the unfair treatment of the indigenous populations during land demarcation and distribution, the violent and unlawful means used to settle numerous land disputes, and the violence and intimidation used against them by private militias and even occasionally by members of the military police. Concern is also expressed about their social protection and the discrimination they suffer in the spheres of health, education, culture, employment, access to public office and housing.

- Republic of Korea, CERD, A/51/18 (1996) 48 at para. 331.

The large number of foreigners who are being employed in ever-increasing numbers by businesses in the Republic of Korea, who live and work clandestinely in the country, usually under difficult and precarious conditions, and who are the victims of discrimination under the provisions of article 5 (a), (b), (d), (e) and (f) of the Convention, is of concern. The same concern has been expressed with regard to the situation of foreign trainees who are allegedly subjected to various forms of discrimination and forced labour.

- India, CERD, A/51/18 (1996) 51 at paras. 361 and 369.

### *Paragraph 361*

Although constitutional provisions and legal texts exist to abolish untouchability and to protect the members of the scheduled castes and tribes, and although social and educational policies have been adopted to improve the situation of members of scheduled castes and tribes and to protect them from abuses, widespread discrimination against them and the relative impunity of those who abuse them point to the limited effect of these measures. Particular concern is expressed at reports that people

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belonging to the scheduled castes and tribes are often prevented from using public wells or from entering cafés or restaurants and that their children are sometimes separated from other children in schools, in violation of article 5 (f) of the Convention.

### *Paragraph 369*

A continuing campaign to educate the population on human rights, in line with the Constitution of the State party and with universal human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, is recommended. This should be aimed at eliminating the institutionalized high-caste and low-caste mentality.

- Namibia, CERD, A/51/18 (1996) 67 at para. 495.

Concern is expressed at the subsistence of out-of-date and discriminatory laws and the persistence of practices inherited from the *apartheid* regime.

- Mauritius, CERD, A/51/18 (1996) 74 at paras. 553 and 557.

### *Paragraph 553*

It is of concern that section 16 of the Constitution, which prohibits laws that are discriminatory by their terms or in their effects, does not apply to laws with respect to marriage, adoption, divorce, succession or other matters regarding private law.

### *Paragraph 557*

The prohibition of discriminatory legislation, found in section 16 of the Constitution, should be extended to all matters of private law.

- Germany, CERD, A/52/18 (1997) 25 at para. 159.

Genocide has rightly been condemned as a crime against humanity. It is trusted that all genocidal acts will be condemned without any distinction as to time, place or group of victims; it is hoped that schemes for compensation of the victims of genocide and for prevention of any future discrimination will cover all groups that have been or may become victims.

- Pakistan, CERD, A/52/18 (1997) 28 at paras. 187 and 188.

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### *Paragraph 187*

Concern is expressed that the policy of the State party to recognize only religious minorities excludes ethnic, linguistic or racial groups living in the country from any specific protection under the Convention that would derive from their official recognition as minorities.

### *Paragraph 188*

The fact that the fundamental rights of citizens, irrespective of their race, religion, caste, sex, residence or place of birth, are guaranteed by the Constitution is welcomed, although it is stressed that article 1, paragraph 1 of the Convention is broader.

- Bulgaria, CERD, A/52/18 (1997) 39 at para. 285.

Although the right to associate and to found political parties is stated as a general principle in the Constitution, it is noted with concern that the State party prohibits the foundation and registration of political parties formed on ethnic, racial or religious bases.

- Mexico, CERD, A/52/18 (1997) 42 at para. 322.

The State party should find just and equitable solutions to land delimitation, distribution and restitution problems. Everything possible should be done to protect indigenous inhabitants from all forms of discrimination in such matters.

- Algeria, CERD, A/52/18 (1997) 52 at para. 400.

The enjoyment by everyone without discrimination of the rights listed in article 5 of the Convention should be ensured, in particular the right to security of the person and protection against violence or bodily harm. In connection with article 5 (e) of the Convention, adequate indicators and other means of monitoring the economic and social conditions of the ethnic groups should be developed.

- Sweden, CERD, A/52/18 (1997) 65 at para. 509.

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

- The Former Yugoslav Republic of Macedonia, CERD, A/52/18 (1997) 67 at para. 518.

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It is noted that the representation of various ethnic groups in the judiciary, Parliament and other public bodies and agencies of government continues to be below their respective percentages in the population.

- Burundi, CERD, A/52/18 (1997) 73 at para. 577.

Concern is expressed over reports that people, mostly of Hutu origin, are forced by the police to leave their homes and settle in regroupment camps, which are kept under the control of the army in violation of article 5 (d) (i) of the Convention.

- Norway, CERD, A/52/18 (1997) 77 at para. 616.

The State party should take all appropriate measures to ensure access to work and housing on a non-discriminatory basis, in conformity with the Convention.

- Burkina Faso, CERD, A/52/18 (1997) 80 at para. 624.

It is noted with appreciation that the prohibition of discrimination on any ground, in particular race, ethnic origin, colour, religion and caste, is contained in the Constitution, which makes it an excellent basis for the implementation of the Convention.

- Croatia, CERD, A/53/18 (1998) 59 at para. 322.

The State party should ensure that the Law on Citizenship is implemented in a non-discriminatory manner.

- Jordan, CERD, A/53/18 (1998) 69 at para. 394.

Concern is expressed that since the protections in the Penal Code are limited to groups which constitute the nation, the provisions of article 4 are not fully implemented and non-citizens may not receive the protections envisaged in article 5 (a) and (b) of the Convention.

- Nepal, CERD A/53/18 (1998) 73 at para. 430.



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Having noted that the caste system has been abolished by law, concern is expressed that this system still functions and appears embedded in parts of the State party's culture. The limitation that this system imposes on the effective enjoyment by all groups of the rights enshrined in article 5 of the Convention is of concern.

- Republic of Korea, CERD, A/54/18 (1999)14 at para. 57.

Concern is expressed at the vulnerable situation of foreigners with irregular status who live and work in the country, usually under difficult and precarious conditions. Such persons are victims of discrimination, in violation of article 5 of the Convention, notably paragraphs 5 (d) and (e).

- Peru, CERD, A/54/18 (1999) 21 at para. 151.

It is noted with concern that in the cases brought before the courts, it is reportedly entirely up to the plaintiff to prove discrimination.

- Latvia, CERD, A/54/18 (1999) 39 at paras. 395, 398, 405 and 406.

### *Paragraph 395*

It is noted that only persons who were citizens of Latvia before 1940 and their descendants have automatically been granted citizenship, while other persons have to apply for citizenship. Therefore, more than 25 per cent of the resident population, many of them belonging to non-Latvian ethnic groups, have to apply and are in a discriminatory position. Although the naturalization process has recently been made more accessible for elderly persons and for children, it is noted with concern that the qualification requirements may not be easily met and that the naturalization process remains slow.

### *Paragraph 398*

With respect to article 5 (d) (i), concern is expressed that passports for non-citizens are being issued at an unreasonably slow pace. As the old passports are no longer valid for travel, persons who have not obtained a new passport are effectively prevented from leaving the country or, once departed, are prevented from returning.

### *Paragraph 405*

Steps should be taken to regularize the status of persons who do not qualify for citizenship and are not registered as residents, in order to avoid discrimination against them.

### *Paragraph 406*

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The State party should eliminate the unjustifiable differences of treatment between citizens and non-citizens, mostly persons belonging to ethnic groups, in light of the provisions of article 5(e).

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

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

- Malta, CERD, A/55/18 (2000) 29 at para. 131.

It is noted with concern that officers found to have treated persons in a discriminatory manner in the course of their duties are subjected to disciplinary action only. It is recommended that the State party take the necessary measures to ensure that criminal charges are brought against police officers for acts violating the provisions of the Convention.

- Rwanda, CERD, A/55/18 (2000) 31 at para. 149.

While noting that the State party's measures to relocate large groups of the population to semi-urban locations are intended to improve access to water, health and other services, reports of forced relocations and that some relocated persons do not have access to adequate housing are matters of concern. The State party should ensure that all relocations are made on a non-discriminatory basis and that relocated persons enjoy, without discrimination, the rights listed in article 5 of the Convention.

- Nepal, CERD, A/55/18 (2000) 52 at paras. 298, 299 and 302.

### *Paragraph 298*

It is emphasized that guarantees of non-discrimination laid down in constitutional or legislative provisions, without mechanisms to monitor their application, do not on their own ensure the enjoyment of non-discrimination.

### *Paragraph 299*

Concern remains at the existence of caste-based discrimination, and the denial which this system imposes on some segments of the population of the enjoyment of the rights enshrined in the Convention. The State party is encouraged to implement, *inter alia*, affirmative measures to advance and protect persons subjected to caste-based discrimination.

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### *Paragraph 302*

The State party is encouraged to carry out comprehensive public education campaigns to combat discriminatory traditional customs and societal attitudes.

- Sweden, CERD, A/55/18 (2000) 57 at para. 339.

Concern is expressed about increasing *de facto* residential segregation. The State party should ensure compliance with the law against discrimination in the allocation of housing.

- Uzbekistan, CERD, A/55/18 (2000) 70 at paras. 434 and 435.

### *Paragraph 434*

Concern is expressed at the lack of domestic legislation for the protection of refugees and asylum-seekers and at reported incidents of discrimination against refugees, especially in respect to their access to State social services. The State party should enact legislation on asylum in accordance with the 1951 Convention relating to the Status of Refugees.

### *Paragraph 435*

It is recommended that the State party undertake legislative reform to safeguard the enjoyment, without any discrimination, by all segments of the population of the economic, social and cultural rights listed in article 5 of the Convention.

- Algeria, CERD, A/56/18 (2001) 16 at para. 31.

Concern is expressed about the Law on the Generalization of the Arabic Language of 5 July 1998, prohibiting the use of languages other than Arabic in various fields. While noting the statement by the delegation that the Law on the Generalization of Arabic Language has not been applied in practice, the Government is urged to review this law as a matter of priority, particularly in the context of the steps taken to promote Amazigh language.

- Bangladesh, CERD, A/56/18 (2001) 21 at para. 73.

With regard to the interpretation of the definition of racial discrimination contained in article 1 of the Convention, the Committee considers that the term "descent" does not solely refer to race or ethnic or national origin and is of the view that the situation of castes falls within the scope of the Convention.

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- Iceland, CERD, A/56/18 (2001) 32 at para. 155.

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

- Portugal, CERD, A/56/18 (2001) 38 at para. 195.

It is noted with concern that discrimination exists in some industrial and service sectors where illegal migrant workers are engaged. The State party should take measures to put an end to this discrimination.

- China, CERD, A/56/18 (2001) 44 at para. 246.

While noting efforts to facilitate integration and naturalization of Indo-Chinese refugees in mainland China, it of concern that different standards of treatment are applied to Indo-Chinese asylum-seekers on the one hand, and asylum-seekers of other national origins on the other, notably with regard to the rights to work and education. Particular concern is expressed regarding the treatment of asylum-seekers from the People's Democratic Republic of Korea, who are reportedly systematically refused asylum and returned, even in cases when they have been considered to be refugees by UNHCR. The State party should take the necessary measures to ensure that all refugees and asylum-seekers receive equal treatment. To this end, the adoption of formal legislative or administrative provisions should be considered in order to implement objective criteria for the determination of refugee status.

- Egypt, CERD, A/56/18 (2001) 50 at paras. 281 and 282.

### *Paragraph 281*

The significant role of the Supreme Constitutional Court in the judicial system of the State party in upholding human rights and constitutional guarantees, particularly with regard to the protection of equal rights, as well as the prevention and elimination of discrimination is considered to be very positive.

### *Paragraph 282*

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The fact that, pursuant to article 151 of the Constitution, international instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, form part of the domestic legal system and can be invoked directly before the courts is welcomed. Furthermore, access to the Supreme Constitutional Court is guaranteed so as to enable citizens to challenge the constitutionality of any domestic provision.

- Italy, CERD, A/56/18 (2001) 53 at para. 315.

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

- Viet Nam, CERD, A/56/18 (2001) 68 at para. 416.

The State party's Constitution devotes an entire chapter to the fundamental rights and obligations of citizens and several laws have been enacted to put the Constitution into concrete terms, thereby creating a legal environment for its implementation, but the adoption of more specific anti-discrimination legislation to implement the Convention would be welcome.

- Liberia, CERD, A/56/18 (2001) 70 at para. 437.

Concern is expressed about the vulnerable situation of the large number of refugees who have fled the State party for neighbouring countries, and that little seems to have been put into place to ensure their repatriation and reintegration. In addition, the reports of discrimination against Sierra Leonean refugees are disturbing.

### **ICCPR**

- Belgium, ICCPR, A/47/40 (1992) 94 at para. 430.

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The State party should more adequately reflect in internal administrative practice the provisions of the Covenant which are not reflected in the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. arts. 25, 26 and 27); and ensure that the laws regarding restrictions on freedom of expression and assembly are compatible with those provided for in the Covenant. The State party should further improve the effectiveness of the protection granted to minority rights at the communal level. The State party should reconsider its reservations so as to withdraw as many as possible.

- Ireland, ICCPR, A/48/40 vol. I (1993) 119 at paras. 609, 610 and 615.

### *Paragraph 609*

The existence of discriminatory distinctions between citizens by birth and those who are naturalized and the discriminatory treatment in some respects of non-nationals, including refugees and asylum-seekers, are matters of concern. It is also noted that civil servants are unduly restricted with respect to their right to participate in public affairs and the right to strike.

### *Paragraph 610*

Effective steps should be taken to incorporate all the provisions of the Covenant into law and ensure that they are accorded a status superior to that of domestic legislation. Notwithstanding that the Covenant cannot be directly invoked in the courts, the need to comply with international obligations should be taken fully into account by the judiciary. A comprehensive review of existing legislation and practices should be undertaken with a view to ensuring their compatibility with the Covenant. In particular, guarantees against discrimination should be clearly set out and conformity with the Covenant should be ensured. Draft legislation, especially in the areas of criminal justice and public security, should also be reviewed to ensure compatibility with the Covenant before its adoption.

### *Paragraph 615*

Additional affirmative action should be taken that is aimed at improving the situation of the "Travelling Community." In particular, facilitating and enhancing the participation of "Travellers" in public affairs, including the electoral process, should be undertaken.

- Iceland, ICCPR, A/49/40 vol. I (1994) 19 at paras. 74-76 and 79.

### *Paragraph 74*

It is noted with concern that the Constitution of Iceland is lacking in clear and comprehensive provisions dealing with the protection of all fundamental human rights as recognized in the numerous international human rights treaties, in particular in the International Covenant on Civil and Political Rights. The absence is not met by reliance on unspecified unwritten fundamental rules. This does not adequately meet the requirements of article 2, paragraph 2, of the Covenant, which enjoins States

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parties to take such legislative or other measures which may be necessary to give effect to the rights recognized in the Covenant. No matter how effective the Icelandic constitutional tradition of relying on unwritten fundamental rules and principles may be, codification of the rules governing the protection of human rights is an important element of protection.

### *Paragraph 75*

In this connection, the status of the Covenant within the national legal order and the lack of clarity concerning the resolution of eventual conflicts between the Covenant and the Constitution and other domestic legislation are of concern.

### *Paragraph 76*

The apparent preference accorded, in the domestic law as well as in legal doctrine and jurisprudence, to the European Convention for the Protection of Human Rights and Fundamental Freedoms as against the International Covenant on Civil and Political Rights is of concern. In that regard, the attention of the State party is drawn to the fact that the latter guarantees a number of human rights not protected under the former and that permissible restrictions are less broadly based.

### *Paragraph 79*

Appropriate measures should be taken to incorporate provisions of the Covenant into domestic law and ensure that the Covenant is treated on an equal footing with regional human rights instruments, both in legal and practical terms.

### *See also:*

- Malta, ICCPR, A/49/40 vol. I (1994) 26 at para. 125.
  
- Japan, ICCPR, A/49/40 vol. I (1994) 23 at para. 106.

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

- Mexico, ICCPR, A/49/40 vol. I (1994) 33 at para. 176.

Doubts and concerns are expressed over the electoral system and practices and the climate of violence in which the most important elections have taken place. It is noted that this situation precludes the

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full guarantee of free choice by all voters and the participation of all citizens in the conduct of public affairs, in particular through freely chosen representatives, in accordance with article 25 of the Covenant.

- Jordan, ICCPR, A/49/40 vol. I (1994) 41 at para. 230.

The Constitution does not contain specific provisions as to the relationship between international conventions and domestic law. Accordingly, there is a need to define the place of the Covenant within the Jordanian legal system to ensure that domestic laws are construed in conformity with the provisions of the Covenant. Furthermore, the general legal framework is still not in conformity with the provisions of the Covenant.

- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at paras. 321 and 325.

### *Paragraph 321*

Concern is expressed over the unfair treatment accorded to conscientious objectors in Cyprus who are subject to an excessive period of alternative service lasting 42 months, which is not compatible with the provisions of article 18 and 26 of the Covenant, and that persons may also be subject to punishment on one or more occasions for failure to perform military service.

### *Paragraph 325*

With respect to article 25 of the Covenant, it is of concern that elections in accordance with the 1960 Constitution have not been held since 1974 for government positions allocated to Turkish Cypriot representatives. Under such continuing circumstances, Cypriot citizens of Turkish origin cannot effectively exercise their right to vote and run for public office as guaranteed under the Covenant.

- Slovenia, ICCPR, A/49/40 vol. I (1994) 56 at para. 346.

The provisions of article 5 of the Constitution relating to the protection of only ethnic Slovene emigrants and migrant workers, which implicitly tends to establish a privileged treatment in the Constitution for such Slovenes over other Slovene citizens living abroad, is of concern.

- Burundi, ICCPR, A/49/40 vol. I (1994) 58 at para. 366.

Urgent measures should be taken to reorganize public institutions so as to ensure balanced participation by all population groups in the conduct of public affairs and to permit all citizens,



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without distinction, to have access to public service, in the administration, the army, the police, the gendarmerie, the security forces and the judiciary. In addition, the army should be brought under the effective control of the civilian authorities. The judiciary and the civil service should also be opened immediately to those groups, so that they can be seen by the population to be impartial and representative of the population as a whole, thus restoring some degree of public confidence in national institutions.

- Paraguay, ICCPR, A/50/40 vol. I (1995) 42 at para. 214.

The restriction on voting for students of military schools seems to be an unreasonable restriction on article 25 of the Covenant on the right to participate in public life.

- United States of America, ICCPR, A/50/40 vol. I (1995) 52 at para. 291.

It is noted with concern that information provided in the core document reveals that disproportionate numbers of Native Americans, African Americans, Hispanics and single-parent families headed by women live below the poverty line and that one in four children under six live in poverty. It is also of concern that poverty and lack of access to education adversely affect persons belonging to these groups in their ability to enjoy rights under the Covenant on the basis of equality.

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at para. 322.

Concern is expressed at the information in the report, corroborated by cases, that there are incidents and situations which may be conducive to acts of discrimination on ethnic, gender, religious, linguistic or property grounds. It is regretted that the appropriate steps have not yet been taken by the authorities to resolve those difficulties and, in particular, to prevent and suppress the advocacy of national, racial or religious hatred in conformity with the requirements of article 20 of the Covenant. This situation is particularly alarming in that it may undermine harmonious relations with minorities. In that regard, the Committee regrets that the definition of minorities under the Declaration of the Rights of the Nationalities of Ukraine does not conform fully with article 27 of the Covenant, which grants protection to persons belonging to all ethnic, religious or linguistic minorities, and not only to those belonging to "national" minorities. Lastly, it is noted with regret that measures have not yet been taken to grant automatically Ukrainian citizenship to Crimean Tartars who have returned to Crimea.

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

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### *Paragraph 350*

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

### *Paragraph 360*

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

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at para. 475.

Greater efforts should be undertaken to ensure that all ethnic groups are provided with the opportunity to participate fully in the conduct of public affairs and are ensured equitable access to public service.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICCPR, A/51/40 vol. I (1996) 13 at para. 65.

The reservation made by the United Kingdom that article 25 of the Covenant does not require establishment of an elected executive or legislative council is noted. However, once an elected legislative council is established, its election must conform to article 25. The electoral system in Hong Kong does not meet the requirements of article 25, or of articles 2, 3 and 26 of the Covenant. That only 20 of 60 seats in the Legislative Council are subject to direct popular election, and the existence of functional constituencies, which gives undue weight to the views of the business community, discriminate amongst voters on the basis of property and functions. That clearly constitutes a violation of article 2, paragraph 1 and articles 25 (b) and 26. It is also of concern that laws depriving convicted persons of their voting rights for periods of up to 10 years may be a disproportionate restriction of the rights protected by article 25.

- Estonia, ICCPR, A/51/40 vol. I (1995) 19 at paras. 112, 124 and 125.

### *Paragraph 112*

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It is of concern that the conditions for appointment to or employment in any position in a State or local government agency, in particular the automatic exclusion of persons unable to satisfy the requirements of the written oath of conscience regarding their previous activities under the former regime, may give rise to an unreasonable restriction on the right of access to public service without discrimination.

### *Paragraph 124*

With regard to article 2, all provisions in domestic law discriminating against non-citizens should be systematically reviewed and brought into line with articles 2 and 26 of the Covenant.

### *Paragraph 125*

The State party should review the Law on the Implementation of the Constitution with regard to the obligation to take an oath of conscience, with a view to bringing the Law fully into line with non-discrimination provisions and article 25 of the Covenant and providing for the right to an effective remedy against a decision not to appoint, or to dismiss a person, in case of refusal to take such an oath.

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

All grounds on which discrimination is prohibited should be incorporated in the relevant non-discrimination provisions of the Constitution and the provisions should be extended to cover aliens. It is also recommended that the proposed Equal Opportunity Commission consider whether affirmative-action measures, including educational measures, are necessary to overcome remaining obstacles to equality, such as outdated attitudes concerning the role and status of women.

- Guatemala, ICCPR, A/51/40 vol. I (1996) 33 at para. 221.

It is further noted that social and economic disparities are all-pervasive in the country. High levels of poverty and illiteracy, lack of opportunities, and discrimination against the indigenous population, women and the poor contribute to widespread violation of human rights.

- Gabon, ICCPR, A/52/40 vol. I (1997) 24 at para. 135.

All grounds on which discrimination is prohibited, as provided for in articles 2 and 26 of the Covenant, should be incorporated in the relevant provisions of the Constitution. It is further recommended that article 2 of the Constitution be amended to ensure its compatibility with articles 2 (1), 3 and 26 of the Covenant and that affirmative measures be taken to strengthen the participation of women in the political, economic and social life of the country and to overcome the discriminatory

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effects of customary laws.

*See also:*

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at para. 75(8).
- Germany, ICCPR, A/52/40 vol. I (1997) 32 at para. 186.

It is of concern that membership in certain religious sects may, in some Länders of the State party, disqualify individuals from obtaining employment in the public service, which may, in certain circumstances, violate the rights guaranteed in articles 18 and 25 of the Covenant. The State party should discontinue the holding of "sensitizing" sessions for judges about the practices of certain designated sects.

- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at para. 285.

There is a significant gap between the legal framework and reality in the field of human rights. Although a large number of laws and regulations have recently been adopted to protect human rights and provide remedies in cases of abuse, there has been little noticeable improvement in the situation of human rights in practice.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at paras. 349 and 353.

*Paragraph 349*

The State party should review its laws, especially those governing the status of women, women's rights and obligations in marriage and civil obligations, make appropriate amendments to them and take appropriate action to ensure full legal and *de facto* equality for women in all aspects of society. Accessible and effective remedies should be available in respect of all forms of discrimination. In addition to the existing laws and procedures governing marriage, civil laws on marriage and divorce available to everyone should be introduced.

*Paragraph 353*

The Committee notes with concern that every Lebanese citizen must belong to one of the religious denominations officially recognized by the Government, and that this is a requirement in order to be eligible to run for public office. This practice does not comply with the requirements of article 25 of the Covenant.

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- India, ICCPR, A/52/40 vol. I (1997) 67 at paras. 420 and 430.

### *Paragraph 420*

The size of the country, its huge population, the massive poverty and the great disparities in the distribution of wealth among various social groups affect the advancement of rights. The persistence of traditional practices and customs leading to women and girls being deprived of their rights, their human dignity and their lives, and to discrimination against members of the underprivileged classes and castes and other minorities, and ethnic, cultural and religious tensions constitute impediments to the implementation of the Covenant.

### *Paragraph 430*

Despite measures taken by the Government, members of scheduled castes and scheduled tribes, as well as the so-called backward classes and ethnic and national minorities continue to endure severe social discrimination and to suffer disproportionately from many violations of their rights under the Covenant, including *inter alia*, inter-caste violence, bonded labour and discrimination of all kinds. It is regretted that the *de facto* perpetuation of the caste system entrenches social differences and contributes to these violations. Further measures should be adopted, including education programmes at national and state levels, to combat all forms of discrimination against these vulnerable groups, in accordance with articles 2, paragraph 1, and 26 of the Covenant.

- Lithuania, ICCPR, A/53/40 vol. I (1998) 30 at paras. 175 and 178.

### *Paragraph 175*

The registration requirements for religious organizations, as well as distinctions made between different religious groups in this connection, could result in discrimination on religious grounds in violation of the right to freedom from discrimination on the ground of religion. There should be no discrimination in law or in practice in the treatment of different religions, in violation of articles 18 and 26 of the Covenant.

### *Paragraph 178*

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

- Cyprus, ICCPR, A/53/40 vol. I (1998) 33 at para. 197.

The discriminatory treatment accorded to conscientious objectors in Cyprus, who may be subject to

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punishment on one or more occasions for failure to perform military service, is of concern. The proposed new law concerning conscientious objectors should ensure fair treatment under the law and eradicate lengthy imprisonment as a form of punishment.

- Finland, ICCPR, A/53/40 vol. I (1998) 40 at paras. 266 and 271.

### *Paragraph 266*

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

### *Paragraph 271*

The law that grants Jehovah's Witnesses preferential treatment as compared with other groups of conscientious objectors should be reviewed to bring it into full conformity with article 26 of the Covenant.

- Israel, ICCPR, A/53/40 vol. I (1998) 45 at paras. 319-321 and 324.

### *Paragraph 319*

The increasingly restrictive conditions for maintaining the right to permanent residence, the denial of requests for family reunification and the difficulty experienced by non-Jews in obtaining building permits and accommodation have resulted in increasing numbers being forced to move to the occupied territories. Profound concern is expressed at the effect of the unpublished directive of the Ministry of the Interior under which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years. This policy is being applied retroactively to both Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. The rules and procedures relating to permanent residency status should be applied without discrimination.

### *Paragraph 320*

The demolition of Arab homes as a means of punishment is deplored, as is the practice of demolitions, in part or in whole, of "illegally" constructed Arab homes. The difficulties imposed on Palestinian families seeking to obtain legitimate construction permits are noted with regret. The demolition of homes conflicts directly with the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (art. 17), the freedom to choose one's residence (art. 12) and equality of all persons before the law and equal protection of the law (art. 26).

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### *Paragraph 321*

The Israel Lands Administration (ILA), responsible for the management of 93 per cent of land in Israel includes no Arab members. While the ILA has leased or transferred land for the development of Jewish towns and settlements, few Arab localities have been established in this way until recent years. Urgent steps should be taken to overcome the considerable inequality and discrimination which remain in regard to land and housing.

### *Paragraph 324*

Preference given to the Jewish religion in the allocation of funding for religious bodies, to the detriment of Muslims, Christians, Druze and other religious groups, is of concern. Regulations and criteria for funding should be published and applied to all religious groups on an equal basis.

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at paras. 153 and 159.

### *Paragraph 153*

The vagueness of the concept of "reasonable discrimination" is of concern and, in the absence of objective criteria, is incompatible with article 26 of the Covenant.

### *Paragraph 159*

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

- Austria, ICCPR, A/54/40 vol. I (1999) 42 at para. 192.

Legal provisions in Austria relating to the recognition of religions and the benefits accorded to recognized religions may result in discrimination contrary to articles 18 and 26 of the Covenant.

- Chile, ICCPR, A/54/40 vol. I (1999) 44 at paras. 219 and 220.

### *Paragraph 219*

Legislation should be enacted to prohibit discrimination and provide an effective remedy to those whose right not to be discriminated against is violated. The establishment of a national defender of human rights or other effective agency to monitor the implementation of anti-discrimination legislation is recommended.

### *Paragraph 220*

Equal status in public law should be given to all religious communities.

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- Romania, ICCPR, A/54/40 vol. I (1999) 68 at para. 376.

The right to conscientious objection should be provided for without discrimination.

- Republic of Korea, ICCPR, A/55/40 vol. I (2000) 29 at paras. 145 and 146.

### *Paragraph 145*

The abolition of the "ideology conversion oath" is welcomed. Its replacement with a "law-abidance oath" is regretted. It remains unclear which prisoners are required to sign the oath and what the consequences and legal effects of the oath are. Concern is expressed that the oath requirement is applied on a discriminatory basis, particularly to persons convicted under the National Security Law, and that in effect it requires persons to make an oath to abide by a law that is incompatible with the Covenant.

### *Paragraph 146*

The "law-abidance oath" imposed on some prisoners as a condition for their release should be abolished.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 410 and 411.

### *Paragraph 410*

That conscientious objection to military service is allowed only for members of a registered religious organization whose teachings prohibit the use of arms is of concern. That the State party has not sought to justify why the provision on alternative service entails a period of service twice as long as that required of military conscripts, and why persons of higher education serve for a considerably lesser period in the military as well as in alternative service (arts. 18, 26), is regretted.

### *Paragraph 411*

Conscientious objection should be provided for in law in a manner that is consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protects freedom of conscience of non-believers. The State party should fix the periods of military service and alternative service on a non-discriminatory basis.

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at paras. 448-450.

### *Paragraph 448*

With respect to the Travelling community, the generally lower living standards of members of this



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community, their low levels of participation in national political and social life and their high levels of maternal and infant mortality, are of concern.

### *Paragraph 449*

The State party is urged to continue its efforts to take positive action to overcome discrimination and to ensure the equal enjoyment of rights by members of the Travelling community and in particular to improve their access to health, education and welfare services, including accommodation, and their participation in political and public life. Programmes to change attitudes and to promote understanding between the Travelling and the settled communities (arts. 26, 27) should be actively pursued.

### *Paragraph 450*

The State party should repeal or reform discriminatory aspects of legislation requiring the registration of alien husbands of Irish women citizens, which is not required of alien wives of Irish male citizens (arts. 3, 26). The State party should also ensure the full and equal enjoyment of Covenant rights by disabled persons, without discrimination, in accordance with article 26.

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 456, 457, 483 and 484.

### *Paragraph 456*

Referring to General Comment No. 24 on reservations, it is noted that the “interpretative declarations” of the State party regarding article 2, paragraph 1, article 3, and article 23, as well as the “reservations” concerning article 25 (b) of the Covenant raise the serious issue of their compatibility with the object and purpose of the Covenant. In particular, it is noted that articles 2 and 3 of the Covenant constitute core rights and overarching principles of international law that cannot be subject to “limits set by Kuwaiti law”. Such broad and general limitations undermine the object and purpose of the entire Covenant.

### *Paragraph 457*

The interpretative declaration regarding articles 2 and 3 contravenes the State party’s essential obligations under the Covenant and is therefore without legal effect and does not affect the powers of the Committee. The State party is urged to withdraw formally both the interpretative declarations and the reservations.

### *Paragraph 483*

The naturalization of Muslim applicants exclusively is of concern. That the legal consequence of a conversion from Islam to another religion may result in the loss of Kuwaiti nationality is also of concern.

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### *Paragraph 484*

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

- Australia, ICCPR, A/55/40 vol. I (2000) 71 at para. 503.

The enactment of anti-discrimination legislation in all jurisdictions of the State party, including legislation to assist disabled persons, is welcomed.

- Trinidad and Tobago, ICCPR, A/56/40 vol. I (2001) 31 at paras. 72(10) and 72(11).

### *Paragraph 72(10)*

Concern is expressed about the lack of remedies under domestic legislation, including the Constitution, for victims of discrimination within the full ambit of articles 2.3 and 26 of the Covenant. The State party should ensure that remedies are available for the full range of discriminatory situations falling within the protection given by articles 2.3 and 26.

### *Paragraph 72(11)*

Priority should be given to all necessary preparations, so as to bring into force by proclamation at the earliest possible date the Equal Opportunities Act 2000, particularly in respect to the advancement of women. The State party should, thereafter, introduce amending legislation to extend the provisions of the Act to those suffering discrimination on grounds of age, sexual orientation, pregnancy or infection with HIV/AIDS.

- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at paras. 74(14) and 74(16).

### *Paragraph 74(14)*

Discriminatory aspects of the abortion laws and policies in force, which result in disproportionate resort to illegal, unsafe abortions by poor and rural women, are of concern. The State party should take measures to give effect to the Reproductive Health and Responsible Procreation Act of July 2000, by which family planning counselling and contraceptives are to be provided, in order to grant women real alternatives. The laws and policies with regard to family planning should be reviewed on a regular basis. Women should be given access to family planning methods and sterilization procedures; and in cases where abortion procedures may lawfully be performed, all obstacles to obtaining them should be removed. Argentine law should be amended to permit abortions in all cases of pregnancy resulting from rape.

### *Paragraph 74(16)*

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The preferential treatment, including financial subsidies, accorded to the Catholic Church over other religious denominations constitutes religious discrimination under article 26 of the Covenant.

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at para. 75(6).

### *Paragraph 75(6)*

The establishment of a ministry with responsibility for human rights and of a 14-member national human rights commission as an official body to promote and protect human rights with jurisdiction to consider applications from individuals is noted. The creation of an inter-ministerial commission to identify and remove discriminatory legislative provisions, particularly with regard to women, is welcomed.

- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at paras. 77(25) and 77(26).

### *Paragraph 77(25)*

The privileged status of the Roman Catholic Church and possible adverse effects on other religions is of concern. The State party should guarantee that no religious community in Venezuela will suffer discrimination.

### *Paragraph 77(26)*

There is no provision in Venezuelan law for conscientious objection to military service, which is legitimate pursuant to article 18 of the Covenant. The State party should see to it that individuals required to perform military service can plead conscientious objection and perform alternative service without discrimination.

### *See also:*

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at para. 78(21).
  
- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at paras. 80(8) and 80(19).

### *Paragraph 80(8)*

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

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### *Paragraph 80(19)*

The lack of a comprehensive law prohibiting discrimination in private-sector areas such as employment and housing is of concern. Pursuant to article 2, paragraph 3, and article 26 of the Covenant, the State party has a duty to protect persons against such discrimination. The State party should promulgate a law prohibiting all discrimination and providing effective recourse for all persons against violations of their right to non-discrimination.

### *See also:*

- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at para. 77(23).
  
- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at paras. 81(5), 81(11) and 81(21).

### *Paragraph 81(5)*

The status of the Covenant in the State party's internal legal framework is noted as are the assurances by the State party's delegation, without adding further details or citing precise cases, that the Covenant may be directly invoked before Syrian courts. That the provisions of the Constitution of the Syrian Arab Republic frequently refer to the law is also noted. The law, however, rather than being an additional guarantee of the rights and freedoms proclaimed in the Constitution and ensuring that the provisions of the Covenant are given full effect, often tends to restrict the scope of application of the Covenant's provisions. The State party should review its legislation in order to render it compatible with all the provisions of the Covenant.

### *Paragraph 81(11)*

The absence of any independent oversight body and of non-governmental organizations in a position to consider the implementation of the human rights guaranteed by the Constitution and governed by law is of concern. The State party should take the necessary measures to arrange for the monitoring of respect for human rights in its territory by an independent agency.

### *Paragraph 81(21)*

The promulgation of Ordinance No. 1016 of 13 November 1999, which facilitates the travel, departure and return of citizens is noted. It remains of concern that many Syrians living abroad, as well as their children, have been denied a Syrian passport. This situation, which deprives them of the right to return to their own country, is incompatible with article 12, paragraph 4. The denial of a passport to children of exiled Syrians constitutes a violation of articles 24 and 26 of the Covenant. Moreover, the fact that many designated categories of nationals are still required to obtain an exit visa each time they wish to leave the country is a matter of concern and constitutes a violation of article 12, paragraph 2 of the Covenant. The State party should facilitate the return to the country of Syrian citizens wishing to do so and should eliminate the exit visa requirement as a general rule and require it only in individual cases that can be justified in relation to the Covenant.

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- The Netherlands, ICCPR, A/56/40 vol. I (2001) 76 at para. 82(4).

The establishment of the Equal Treatment Commission, set up by the Equal Treatment Act, as an independent body responsible for investigating and assessing cases of alleged discrimination, is welcomed.

- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at paras. 83(3), 83(5)-83(7), 83(10), 83(22) and 83(24).

### *Paragraph 83(3)*

The State party is commended for its commitment to rebuilding a democratic legal order and undertaking the process of bringing its legislation into harmony with its international obligations, since the transition to democracy which started in 1989. This includes the serious attempt by the State party to adopt a new rights-based Constitution and Charter of Fundamental Rights and Freedoms that embodies internationally-recognized human rights.

### *Paragraph 83(5)*

While the Covenant has a status superior to domestic legislation, not all rights stipulated in the Covenant have been incorporated in the Charter of Fundamental Rights and Freedoms, which leads to confusion as to the full protection of all Covenant rights. It is also not clear as to what is the relationship between the Covenant and the Charter and other parts of the constitutional order (art. 2). The State party should clarify the relationship between the Covenant rights not included in the Charter and the constitutional order, so as better to ensure full implementation of all Covenant rights in all circumstances.

### *Paragraph 83(6)*

The apparent absence of procedures for dealing with the implementation of the Views of the Committee under the Optional Protocol is of concern. The position adopted by the State party in the cases of Simunek (516/1992) and Adam (586/1994), regarding the restitution of property or compensation under Act 87/91 is deeply regretted. The State party's response to the Committee's decision that the pre-condition of Czech citizenship to restitution or compensation under Act 87/91 was discriminatory and in violation of article 26 of the Covenant is also regretted. A decision by the Constitutional Court on the constitutionality of the relevant law cannot exonerate the State party from its obligations under the Covenant (article 2; Optional Protocol, articles 1 and 4). The State party should reconsider its present law regarding the right to seek restitution of property or compensation. It should also put in place procedures to deal with Views of the Committee under the Optional Protocol.

### *Paragraph 83(7)*

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The lack of independent mechanisms for monitoring the practical implementation of rights is of concern. While the creation of the institution of the Ombudsman for investigating individual complaints is welcomed, it is noted that his or her powers are limited to recommendations covering the public sector. Furthermore, the Commissioner on Human Rights is a government official and the Council for Human Rights an advisory body; they have no mandate to deal with individual complaints relating to human rights (art. 2). The State party should adopt measures to establish effective independent monitoring mechanisms for implementation of Covenant rights, particularly in the area of discrimination.

### *Paragraph 83(10)*

While noting various recent amendments to legislation to combat discrimination in employment, the lack of monitoring implementation of this legislation is of concern. The high rate of unemployment of Roma, bordering on 70 per cent when the general rate of unemployment is 10 per cent, is also of concern. The absence of legislation prohibiting discrimination in other fields, such as educational and health care systems, housing and the provision of goods and services is also of concern (arts. 2, 3, 26). The State party should adopt measures to ensure the effectiveness of existing legislation against discrimination. It should also adopt further legislation in fields not covered by the current legislation in order to ensure full compliance with articles 2.3 and 26 of the Covenant. The State party should also make greater efforts to provide training to Roma in order to equip them for suitable employment and create job opportunities for them.

### *Paragraph 83(22)*

Changes in the religious registration requirements are noted, but the potentially different treatment in the law accorded to different religions on the basis of registration and non-registration remains of concern (arts. 18, 26).

### *Paragraph 83(24)*

It is of concern that the Screening Act is applied without consideration of the individual circumstances of each person. This raises serious issues under article 25 of the Covenant. The State party must ensure that the Screening Act is not enforced in a blanket manner and is not used as a mechanism to deny persons access, on general terms of equality, to the public service.

- Monaco, ICCPR, A/56/40 vol. I (2001) 89 at paras. 84(6) and 84(7).

### *Paragraph 84(6)*

It is noted that there is no national human rights commission and that there are no plans to establish one. The State party should consider establishing such an independent institution for the protection of human rights.

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### *Paragraph 84(7)*

It is of concern that many legislative measures that have become obsolete and inconsistent with the Covenant remain in force (article 2). The State party should bring its legislation into line with the provisions of the Covenant.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at para. 86(10).

It is of concern that, in addition to judicial protection, there is no independent national institution for the promotion and protection of human rights. Article 69 of the Constitution and the Law on Complaint and Petition granting every citizen the right to submit complaints about the encroachment of his or her rights is no substitute for such an independent monitoring body. The State party should consider the establishment of a national human rights institution (article 2 of the Covenant).

### **ICESCR**

- Luxembourg, ICESCR, E/1991/23 (1990) 24 at para. 129.

The fact that the Covenant, virtually alone among applicable international human rights treaties, is considered to be non-self-executing in its totality is questioned. It is observed that by contrast to this approach, the Covenant contains a number of provisions which the great majority of observers would consider to be self-executing. These include, for example, provisions dealing with non-discrimination, the right to strike and the right to free primary education. In that connection, a view is expressed that a theory, according to which every State should have its own system of interpretation of the international treaties, would lead to chaos and would destroy the very essence of international law.

- Canada, ICESCR, E/1994/23 (1993) 28 at para. 107.

There is widespread discrimination in housing against people with children, people on social assistance, people with low incomes, and people who are indebted. Although prohibited by law in many of Canada's provinces, these forms of discrimination are apparently common. A more concerted effort to eliminate such practices would therefore seem to be in order.

- Viet Nam, ICESCR, E/1994/23 (1993) 34 at para. 141.

Some types of discrimination are practised more or less systematically on the basis of preferences in favour of persons from certain groups, such as children of war victims and decorated families.

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- Senegal, ICESCR, E/1994/23 (1993) 51 at para. 263.

A systematic and comprehensive review of the relevant legislation, administrative procedures and policies should be undertaken to give effect to economic, social and cultural rights, in order to ensure that they conform to the requirements of the Covenant. Special attention should be paid to those areas concerning women and other vulnerable groups.

- Uruguay, ICESCR, E/1995/22 (1994) 23 at para. 78.

The State party should consider the possibility of ratifying the Additional Protocol of San Salvador additional to the American Convention on Human Rights.

### *See also:*

- Paraguay, ICESCR, E/1997/22 (1996) 22 at para. 92.
- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1995/22 (1994) 52 at paras. 287 and 288.

### *Paragraph 287*

Concern is expressed over the fact that there is an absence of comprehensive legislation providing protection against discrimination on the grounds referred to in article 2 of the Covenant. It is noted with concern that the Government's proposed legislation on sex discrimination includes a number of exclusions and exemptions – in particular the so-called small-house policy – which discriminate against women.

### *Paragraph 288*

The Government's clear objection to the establishment of a human rights commission is of concern.

- Algeria, ICESCR, E/1996/22 (1995) 54 at para. 293.

Deep concern is expressed at the fact that the philosophy of the Covenant, based on the principle of non-discrimination and on the idea of the universality of human rights, has not fully taken root in Algerian society.

- Guatemala, ICESCR, E/1997/22 (1996) 29 at para. 140.



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All legislative and other reforms should take into account the need to promote equality and reverse the devastating effects of discrimination against the indigenous populations, in particular through affirmative action.

- Finland, ICESCR, E/1997/22 (1996) 55 at para. 317.

Attention of the authorities is drawn to the need to eliminate discrimination of any kind in the exercise of the rights set forth in the Covenant, especially the right to housing.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICESCR, E/1997/22 (1996) 58 at para. 351.

Concern is expressed at the inadequate care and protection of the mentally ill and disabled in Hong Kong. In particular, the apparent lack of initiative on the part of the Hong Kong Government to undertake public education to combat discrimination against those with mental disabilities is noted with concern.

- Zimbabwe, ICESCR, E/1998/22 (1997) 24 at para. 79.

Although many provisions of the Covenant are to be implemented progressively and in accordance with the maximum of the State party's available resources, there are other rights that must be ensured immediately, such as *de jure* non-discrimination and protection of the cultural rights of minorities.

- Russian Federation, ICESCR, E/1998/22 (1997) 27 at para. 126.

It is recommended that the State party adopt laws and take all necessary measures to prevent discrimination against persons who are HIV positive, so that they may live normal lives.

- Libyan Arab Jamahiriya, ICESCR, E/1998/22 (1997) 38 at paras. 184 and 186.

### *Paragraph 184*

The State party maintains different rates of payment of pensions for foreign and Libyan workers, which is discriminatory.

### *Paragraph 186*

Concern is expressed that foreigners who are working in the State party with valid work permits and

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subsequently become HIV positive are usually deported. This action is discriminatory and inconsistent with the provisions of the Covenant.

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

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

- Iraq, ICESCR, E/1998/22 (1997) 50 at paras. 277 and 279.

### *Paragraph 277*

The social security laws in force should be applied without any discrimination.

### *Paragraph 279*

All appropriate measures should be taken by the authorities to implement, without discrimination, the right to adequate housing under article 11 of the Covenant. Attention is drawn to General Comments Nos. 4 (1991) and 7 (1997).

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1998/22 (1997) 56 at paras. 303 and 315.

### *Paragraph 303*

It is noted that the Irish language in Northern Ireland does not appear to receive the same degree of financial support and status as Gaelic in Scotland and Welsh in Wales. Such a differentiation is unjustified.

### *Paragraph 315*

The same degree of support and status should be given to the Irish language in Northern Ireland as to Gaelic in Scotland and Welsh in Wales.

- Saint Vincent and The Grenadines, ICESCR, E/1998/22 (1997) 72 at para. 422.

With respect to the general provisions of the Covenant, concern is expressed that there are

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occurrences of racial discrimination in the State party and that members of certain minorities, such as the Amerindians and Asians, form a disproportionate part of the lower-income levels. It is noted that disabled people are effectively discriminated against by the absence of specific legislation to cater to their special needs and to provide them with appropriate facilities.

- Sri Lanka, ICESCR, E/1999/22 (1998) 22 at para. 83.

It is of concern that the distinction contained in the current Constitution between "citizens" and "other persons," with respect to the right to equality, has not been removed from the proposed revised Constitution currently before Parliament.

- The Netherlands (Aruba), ICESCR, E/1999/22 (1998) 40 at para. 206.

The authorities should abolish provisions in the country's legislation constituting any form of discrimination and they should promulgate the new Civil Code as soon as possible.

- Cyprus, ICESCR, E/1999/22 (1998) 50 at para. 290.

The recently established National Institution for Human Rights should be promptly promulgated in law and its independence should be guaranteed.

- Canada, ICESCR, E/1999/22 (1998) 63 at para. 426.

The federal, provincial and territorial governments should expand protection in human rights legislation to include social and economic rights and should protect poor people in all jurisdictions from discrimination because of social or economic status. Moreover, enforcement mechanisms provided in human rights legislation need to be reinforced to ensure that all human rights claims not settled through mediation are promptly determined before a competent human rights tribunal, with the provision of legal aid to vulnerable groups.

- Denmark, ICESCR, E/2000/22 (1999) 29 at para. 105.

Concern is expressed that the new Alien Integration Act may have a discriminatory impact on refugees.

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- Ireland, ICESCR, E/2000/22 (1999) 33 at paras. 142 and 149.

### *Paragraph 142*

It is noted with regret that, despite measures adopted by the State party, the Traveller community and the disabled are still discriminated against in various respects, such as employment, education and housing.

### *Paragraph 149*

The State party should speed up the enactment of legislation relating to the human rights of the disabled and the mentally handicapped, including their detention, and should enact legislation to combat discrimination affecting the traveller community.

- Mexico, ICESCR, E/2000/22 (1999) 62 at para. 395.

The allocation of development resources by the State party should be conducted in an equitable manner, irrespective of geographic location and the populations concerned.

- Italy, ICESCR, E/2001/22 (2000) 34 at para. 138.

The State party is urged to extend the subsidized health-care system to asylum-seekers without discrimination.

- Egypt, ICESCR, E/2001/22 (2000) 38 at para. 180.

The State party is urged to ensure that its laws, policies and practices in relation to HIV/AIDS are non-discriminatory and in full conformity with the International Guidelines adopted at the Second International Consultation on HIV/AIDS and Human Rights in 1996.

- Congo, ICESCR, E/2001/22 (2000) 43 at para. 210.

The State party is urged to adopt a Constitution, in order to ensure that the people of the Republic, and particularly the most vulnerable and marginalized groups of society, enjoy their economic, social and cultural rights. It should also take appropriate measures, to guarantee, *inter alia*, the prohibition of discrimination, the elimination of forced or bonded labour, particularly of children under 16 years of age, and conditions for the enjoyment of the right to work, such as equal pay for equal work for men and women. These issues should be brought to the attention of ILO, with which the Government of the Congo is presently negotiating concerning follow-up measures to recently ratified ILO Conventions and possible technical cooperation programmes.

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- Jordan, ICESCR, E/2001/22 (2000) 49 at paras. 234 and 248.

### *Paragraph 234*

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

### *Paragraph 248*

It is recommended that the State party incorporate in its legal order the prohibited grounds of discrimination in accordance with article 2.2 of the Covenant, in particular, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- Finland, ICESCR, E/2001/22 (2000) 73 at para. 446.

Particular concern is expressed about certain municipalities that allocate insufficient funds to health care services. This has resulted in inequality with regard to levels of health care service provision depending on the place of residence, to the detriment in particular of children, persons with physical and mental disabilities and older persons.

- Yugoslavia (preliminary), ICESCR, E/2001/22 (2000) 80 at para. 496.

While the Covenant provides for progressive realization, it also imposes on States parties various obligations which are of immediate effect (art. 2, para. 1). For example, the enumerated rights must be enjoyed without discrimination and the State party has an immediate obligation “to take steps” towards the full realization of all the rights in the Covenant (see General Comments No. 3 (1990) on the nature of States parties’ obligations (art. 2, para. 1, of the Covenant), No. 13 (2000) on the right to education (art. 13 of the Covenant), paras. 43-45, and No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant, paras. 30-32)).

- Hong Kong Special Administrative Region (China), ICESCR, E/2002/22 (2001) 39 at paras. 182, 202, 203 and 207.

### *Paragraph 182*

The apparent lack of initiative to undertake public education to combat discrimination against those with mental disabilities is noted with concern.

### *Paragraph 202*

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

### *Paragraph 203*

The transparency of all relevant processes concerning permanent residence and split families should be enhanced.

### *Paragraph 207*

The authorities are urged to provide public education to combat discrimination against persons with mental illness.

- Senegal, ICESCR, E/2002/22 (2001) 61 at paras. 339 and 361-363.

### *Paragraph 339*

The new Constitution's preamble guarantees the enjoyment of economic, social and cultural rights, however, no legislation, apart from the new Labour Code, has been passed to implement the rights guaranteed under the Covenant.

### *Paragraph 361*

All necessary measures should be taken, including the enactment of legislation, in order to ensure that all the people of the State party enjoy, without any discrimination, the economic, social and cultural rights specified in the Covenant.

### *Paragraph 362*

The State party is urged to formulate and adopt a comprehensive plan of action for human rights, as called for in paragraph 71 of the Vienna Declaration and Programme of Action.

### *Paragraph 363*

The State party is encouraged to ensure that national human rights institutions do not concentrate solely on civil and political rights, but accord equal weight and attention to economic, social and cultural rights.

### *See also:*

- Nepal, ICESCR, E/2002/22 (2001) 83 at para. 556.
  
- Syrian Arab Republic, ICESCR, E/2002/22 (2001) 67 at paras. 419 and 436.

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### *Paragraph 419*

Obligations under the Covenant should be taken into account in all aspects of the State party's negotiations with international financial institutions, such as the IMF, the World Bank and the WTO, to ensure that economic, social and cultural rights, particularly of the most vulnerable groups, are duly protected.

### *Paragraph 436*

The State party should avail itself more actively of technical assistance and cooperation from the Office of the United Nations High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes, such as UNDP and UNESCO, particularly in relation to the preparation of the fourth periodic report on the Covenant, a national human rights plan of action, the creation of a national human rights institution, and the preparation and implementation of the National Education For All Plan in accordance with the Dakar Framework for Action.

### *See also:*

- Ukraine, ICESCR, E/2002/22 (2001) 78 at para. 501.
  
- Panama, ICESCR, E/2002/22 (2001) 73 at paras. 464 and 469.

### *Paragraph 464*

A national plan of action for human rights should be prepared, in accordance with the Vienna Declaration and Programme of Action.

### *Paragraph 469*

The State party is encouraged to act on its stated commitment to develop effective programmes and policies to combat poverty and to achieve the goal of reducing the poverty rate from 37 per cent to 30 per cent of the population by 2003. In this regard, the persistent problem of dramatic income inequality should be addressed. The State should also party review its various initiatives designed to help reduce the high rate of poverty to ensure that they fully integrate human rights, including economic, social and cultural rights, in light of the Statement on poverty and the International Covenant on Economic, Social and Cultural Rights adopted on 4 May 2001.

- Ukraine, ICESCR, E/2002/22 (2001) 78 at paras. 487 and 503.

### *Paragraph 487*

The State party's willingness to cooperate with specialized agencies and other international organizations in such areas as poverty reduction, gender equality, integration of the Crimean Tartars,

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women and children's health, the review of human rights legislation, support for the Authorized Human Rights Representative of the Parliament, and the fight against trafficking of persons, is welcomed.

### *Paragraph 503*

Legal provisions should be strengthened with respect to the prohibition of discrimination in accordance with article 2 (2) of the Covenant, in particular on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- Nepal, ICESCR, E/2002/22 (2001) 83 at para. 555.

The State party is urged to continue to develop and adopt a national plan of action for human rights, which would include economic, social and cultural rights, in accordance with the 1993 Vienna Declaration and Programme of Action and in the context of a participatory, open and consultative process.

### *See also:*

- Japan, ICESCR, E/2002/22 (2001) 90 at para. 615.
  
- Japan, ICESCR, E/2002/22 (2001) 90 at paras. 589, 590, 612 and 618.

### *Paragraph 589*

State party does not give effect to the provisions of the Covenant in domestic law in a satisfactory manner, despite the fact that many of its provisions are reflected in the Constitution. Provisions of the Covenant are also not sufficiently taken into account in the process of legislation and policy formulation, and are rarely mentioned in legislative or administrative proposals or in parliamentary debates. Further concern is expressed about the fact that judicial decisions generally do not make reference to the Covenant, on the mistaken ground that none of its provisions has direct effect. It is a further matter of concern that this position is endorsed by the State party, thereby contravening its obligations under the Covenant.

### *Paragraph 590*

There is particular concern that there is no intention to withdraw the reservations to articles 7 (d), 8 (2) and 13 (2) (b) and (c), of the Covenant, based on the argument that the State party has to a large extent already achieved realization of the rights enshrined in the aforementioned articles. However, information reveals that full realization of those rights is not yet guaranteed.

### *Paragraph 612*



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The State party is urged to review its position towards its legal obligations arising under the Covenant and its provisions should be interpreted as being directly applicable in practice, as outlined in the Committee's general comments, including General Comments No. 13 (1999) on the right to education (art. 13 of the Covenant) and No. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), at least in relation to the core obligations. The State party is further encouraged to introduce "human rights impact assessments", comparable to environmental impact assessments, and other measures to ensure that the provisions of the Covenant are taken into consideration in legislative and administrative policy and decision-making processes.

### *Paragraph 618*

The principle of non-discrimination, as laid down in article 2 (2) of the Covenant, is an absolute principle and can be subject to no exception, unless the distinction is based on objective criteria. It is strongly recommended that the State party strengthen its non-discrimination legislation accordingly.

- Germany, ICESCR, E/2002/22 (2001) 97 at paras. 654, 672 and 683.

### *Paragraph 654*

While the recent establishment of the German Institute of Human Rights is welcomed, it is noted that the Institute's functions appear to be limited to research, education and the provision of policy advice, and that it does not enjoy the powers often associated with national human rights institutions, such as the power to investigate complaints, conduct national inquiries and formulate recommendations for employers and other actors. These limitations are especially regrettable because economic, social and cultural rights receive less attention and enjoy fewer safeguards than civil and political rights in the State party.

### *Paragraph 672*

Given the limited functions and powers of the German Institute for Human Rights, it is recommended that steps be taken either to extend the Institute's functions and powers or to establish a separate national human rights institution with broad functions and powers, such as the power to investigate complaints, conduct national inquiries and formulate recommendations for employers and other actors. In the meantime, it is recommended that the Institute, consistent with its existing functions and powers: devote the same attention to economic, social and cultural rights as to civil and political rights; organize programmes to raise awareness of economic, social and cultural rights, especially among public officials, lawyers and the judiciary; give particular attention to the relationship between human rights and international cooperation; and be responsible for preparing a comprehensive plan of action in full conformity with paragraph 71 of the Vienna Declaration and Programme of Action.

### *Paragraph 683*

The reformed social security system and the pension system under reform should take into account the situation and needs of disadvantaged and vulnerable groups in society. In particular, the State

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party is strongly urged to address the problems and deficiencies emerging in the implementation of the long-term insurance scheme.

### CEDAW

- Paraguay, CEDAW, A/51/38 (1996) 16 at para. 132.

Efforts to guarantee equality in land distribution, ownership and all aspects of its productive use should be increased.

- Ethiopia, CEDAW, A/51/38 (1996) 19 at paras. 154 and 161.

#### *Paragraph 154*

Review of all existing customary laws in ethnic groups should be carried out in order to evaluate them as to their substance and their compatibility with international conventions and national legislation.

#### *Paragraph 161*

There must be an intensive programme to combat the spread of HIV/AIDS. Infected women and men must be guaranteed equal enjoyment of their human rights.

- Morocco, CEDAW, A/52/38/Rev.1 part I (1997) 11 at para. 64.

Cultural characteristics should not be allowed to undermine the principle of the universality of human rights, which remains inalienable and non-negotiable, or to prevent the adoption of appropriate measures in favour of women. The profound inequalities affecting the status of women are of concern. Considerable discrimination in the areas of marriage, conjugal relations, divorce and the custody of children still exists. Laws regarding the punishment of adultery and the ability to pass on nationality continue to benefit the husband to the detriment of the wife.

- Slovenia, CEDAW, A/52/38/Rev.1 part I (1997) 15 at para. 115.

Revised labour legislation should contain equality and anti-discrimination provisions and strong sanctions for non-compliance. Temporary special measures with concrete numerical goals and timetables are also recommended in order to overcome employment segregation.

- Luxembourg, CEDAW, A/52/38/Rev.1 part II (1997) 92 at para. 214.

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Constitutional reforms should include the incorporation of the principle of equality in the text of the Constitution.

- Liechtenstein, CEDAW, A/54/38/Rev.1 part I (1999) 18 at para. 160.

The Government is urged to ensure that the proposed Equality Rights Act not only covers working life, but extends to all spheres of life in order to accelerate equality in both public and private life.

- India, CEDAW, A/55/38 part I (2000) 7 at para. 52.

Widespread poverty, social practices such as the caste system and son preference, as reflected in a high incidence of violence against women, significant gender disparities and an adverse sex ratio, present major obstacles to the implementation of the Convention.

- Germany, CEDAW, A/55/38 part I (2000) 29 at para. 317.

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

- Jamaica, CEDAW, A/56/38 part I (2001) 22 at para. 211.

The slowness of legal reform relating to anti-discriminatory legislation is of concern. It is also of concern that, although the Constitution provides for the equality of all citizens, there are no constitutional remedies available to women.

- Egypt, CEDAW, A/56/38 part I (2001) 33 at para. 337.

The Government is urged to address the multi-dimensional and cross-cutting nature of HIV/AIDS, including its human rights, economic, social, development and security dimensions.

### **CAT**

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- Venezuela, CAT, A/54/44 (1999) 16 at para. 133.

The Act intended to combat violence against women and the family has entered into force, and the Organizational Act for the Protection of Children and Adolescents has been approved and will enter into force next year. Both laws are intended to improve the protection of two particularly vulnerable sectors who frequently fall victim to discrimination, abuse, or cruel, inhuman or degrading treatment.

- United States of America, CAT, A/55/44 (2000) 31 at para. 179.

Concern is expressed over the number of cases of police ill-treatment of civilians, and ill-treatment in prisons (including instances of inter-prisoner violence). Much of this ill-treatment by police and prison guards seems to be based upon discrimination.

- Australia, CAT, A/56/44 (2001) 22 at para. 53.

The State party should continue its efforts to address the socio-economic disadvantage that *inter alia* leads indigenous Australians to come disproportionately into contact with the criminal justice system.

- Brazil, CAT, A/56/44 (2001) 49 at para. 119.

Concern is expressed about the overcrowding, lack of amenities and poor hygiene in prisons, the lack of basic services and of appropriate medical attention in particular, and violence between prisoners and sexual abuse. There is particular concern about allegations of ill-treatment and discriminatory treatment of certain groups with regard to access to the already limited essential services, notably on the basis of social origin or sexual orientation.

## CRC

- Indonesia (preliminary), CRC, CRC/C/20 (1993) 13 at para. 48.

The insufficient attention given to the implementation of the general principles of the Convention, particularly articles 2, 3 and 12, is of concern. The Committee wishes to emphasize that the implementation of these principles is not to be made dependent on budgetary resources.

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- Croatia, CRC, CRC/C/50 (1996) 31 at paras. 189 and 200.

### *Paragraph 189*

The progress made in modifying the Law on Citizenship so as to eliminate risks of discrimination is welcomed.

### *Paragraph 200*

The Government should devote its full efforts to encouraging actively a culture of tolerance through all possible channels, including the schools, the media and the law. The schools should teach children to be tolerant and to live in harmony with persons from different backgrounds.

- Nepal, CRC, CRC/C/54 (1996) 25 at para. 159.

Concern is expressed about the inadequate measures adopted to ensure that national legislation fully conforms with the principles and provisions of the Convention. In particular, the lack of conformity of legislative provisions concerning non-discrimination including in relation to marriage, inheritance and parental property, torture and corporal punishment is noted.

- Guatemala, CRC, CRC/C/54 (1996) 31 at para. 199.

As recognized by the State party, the root causes of the armed conflict need to be tackled, embedded as they are in socio-economic disparities and uneven land distribution as well as in historical social contrasts within the country. High levels of poverty and illiteracy and discrimination against the indigenous population and those living in poverty contribute to widespread violations of human rights.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), CRC, CRC/C/57 (1996) 23 at para. 148.

Further consideration should be given to evaluating the effectiveness of measures to raise awareness for the prevention and combatting of discrimination and promoting tolerance, particularly with respect to discrimination on the grounds of gender, ethnic origin, and discrimination against disabled children and children born out of wedlock.

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- Ghana, CRC, CRC/C/66 (1997) 15 at para. 115.

Information and prevention programmes should be strengthened to combat HIV/AIDS and sexually transmitted diseases (STDs) as well as discriminatory attitudes towards children affected by or infected with HIV/AIDS.

- Lao People's Democratic Republic, CRC, CRC/C/69 (1997) 8 at para. 58.

Accession to other international human rights instruments, including the two International Covenants on Human Rights should be considered.

- Libyan Arab Jamahiriya, CRC, CRC/C/73 (1998) 9 at para. 46.

The State party's legislation should explicitly prohibit discrimination on any ground, including: language; national; ethnic or social origin; property; disability; and birth status. Domestic legislation should also be reformed to guarantee the right to a nationality to every child.

- Hungary, CRC, CRC/C/79 (1998) 7 at para. 43.

The unequal access to health services and opportunities in the education system, especially in rural areas, among minority groups and families living in poverty are of concern.

- Bolivia, CRC, CRC/C/80 (1998) 22 at para. 104.

The growing disparities between rural and urban areas, as well as the growing number of the population living in urban poor and marginalized areas, are of concern. Furthermore, the predominance of discrimination on the bases of ethnic origin, gender, social status and disabilities is also a major concern. Measures should be increased to reduce economic and social disparities, including between rural and urban areas, and to prevent discrimination against the most disadvantaged groups of children, such as children belonging to indigenous communities, girl children, children with disabilities, children born out of wedlock and children who are living and/or working on the streets.

- Nicaragua, CRC, CRC/C/87 (1999) 54 at para. 240.

The lack of adequate infrastructures, limited qualified staff and specialized institutions for children with disabilities are of concern. In light of the Standard Rules on the Equalization of Opportunities

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for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted at its day of general discussion on "Children with Disabilities" (CRC/C/69), the State party should develop early identification programmes to prevent disabilities, implement alternative measures to the institutionalization of children with disabilities, envisage awareness-raising campaigns to reduce discrimination against them, establish special education programmes and centres for them, encourage their inclusion in the educational system and in society, and establish monitoring of private institutions for children with disabilities.

### *See also:*

- Peru, CRC, CRC/C/94 (2000) 64 at para. 376.
  
- India, CRC, CRC/C/94 (2000) 10 at paras. 41, 62, 63 and 83.

### *Paragraph 41*

The existence of traditional customs (i.e. the caste system) and societal attitudes (e.g. towards tribal groups) is an obstacle to efforts to combat discrimination, and compounds, *inter alia*, poverty, illiteracy, child labour, child sexual exploitation and children living and/or working on the streets.

### *Paragraph 62*

In light of article 2 of the Convention, concern is expressed about the existence of caste-based discrimination and discrimination against tribal groups, despite these practices being prohibited under the law.

### *Paragraph 63*

In accordance with article 17 of the Constitution and article 2 of the Convention, it is recommended that the State party take steps to ensure States abolish the discriminatory practice of "untouchability", prevent caste- and tribe-motivated abuse, and prosecute State and private actors who are responsible for such practices or abuses. Moreover, in compliance with article 46 of the Constitution, the State party is encouraged to implement, *inter alia*, affirmative measures to advance and protect these groups. The State party is encouraged to continue its efforts to carry out comprehensive public education campaigns to prevent and combat caste-based discrimination. In line with the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.13), the Committee stresses the importance of the equal enjoyment by members of these groups of the rights in the Convention, including access to health care, education, work, and public places and services, such as wells.

### *Paragraph 83*

The State party should combat discrimination against HIV/AIDS affected persons by strengthening awareness-raising and sensitization programmes for the public, and particularly health professionals.

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- Sierra Leone, CRC, CRC/C/94 (2000) 24 at para. 146.

The Constitution and other relevant national legal instruments should be reviewed, enlarging the list of prohibited grounds of discrimination to include “disability, birth, other [than political] opinion”, as provided for in article 2 of the Convention.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 43, 56 and 57.

### *Paragraph 43*

Concurring with the findings of the Human Rights Committee (CCPR/C/79/Add.25) and the Committee on Economic, Cultural and Social Rights (E/C.12/1993/7), and in accordance with article 2 of the Convention, it is recommended that the State party take effective measures to prevent and eliminate discrimination on the grounds of sex and birth in all fields of civil, economic, political, social and cultural life. The State party should make every effort to enact or rescind, where necessary, civil and criminal legislation to prohibit any such discrimination. In this regard, the State party is encouraged to consider the practices of other States that have been successful in reconciling fundamental rights with Islamic texts. The State party should take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family. Religious leaders should be mobilized to support such efforts.

### *Paragraph 56*

The human rights of children cannot be realized independently from the human rights of their parents, or in isolation from society at large. In light of article 14 of the Convention, the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55), Commission on Human Rights resolution 2000/33, the Human Rights Committee’s General Comment 22, and concurring with the findings of the Human Rights Committee (CCPR/C/79/Add.25) and the Committee on Economic, Social and Cultural Rights (E/C.12/1993/7), the Committee is concerned at the restrictions on the freedom of religion, and that restrictions on the freedom to manifest one’s religion do not comply with the requirements outlined in article 14, paragraph 3. The situation of members of non-recognized religions is a concern, including the Baha’is, who experience discrimination in areas of, *inter alia*, education, employment, travel, housing and the enjoyment of cultural activities.

### *Paragraph 57*

Effective measures should be taken to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life. The State party should make every effort to enact or rescind, where necessary, legislation to prohibit any such discrimination, and take all appropriate measures, including public education campaigns, to combat intolerance on the grounds of religion or other belief. The Committee endorses the recommendations made by the Special



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Rapporteur on the question of religious intolerance following his visit to the State party (E/CN.4/1996/95/Add.2) and recommends that the State party implement them fully.

*See also:*

- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 405 and 406.
- Jordan, CRC, CRC/C/97 (2000) 31 at para. 155.

Noting the universal values of equality and tolerance inherent in Islam, it is observed that narrow interpretations of Islamic texts by authorities, particularly in areas relating to family law, are impeding the enjoyment of some human rights protected under the Convention.

*See also:*

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at para. 27.
- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 288 and 289.

*Paragraph 288*

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

*Paragraph 289*

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

- Cambodia, CRC, CRC/C/97 (2000) 64 at paras. 357 and 358.

*Paragraph 357*

With regard to article 2 of the Convention, the existing patterns of discrimination on the grounds of gender, ethnic origin, HIV/AIDS status and disability are of concern. In particular, concern is expressed that the State party's Constitution refers only to the rights of Khmer citizens.

*Paragraph 358*

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The enjoyment by all children of all the rights enshrined in the Convention should be ensured without any distinction. The State party should take effective measures to eliminate discrimination against girls, in particular with regard to their access to education. Efforts need to be made to eliminate discrimination against children living and/or working on the streets and children belonging to minority groups, especially of Vietnamese origin. Furthermore, the Committee endorses the recommendations made to the State party by the Human Rights Committee in 1999 and by the Committee on the Elimination of Racial Discrimination in 1998 in this regard.

- Djibouti, CRC, CRC/C/97 (2000) 96 at para. 517.

Noting the universal values of equality and tolerance inherent in Islam, the Committee observes that the contradictions that can arise between a narrow interpretation of Islamic texts (and traditional law) and the provisions of civil law can sometimes impede the enjoyment of certain human rights protected under the Convention.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 111, 112, 141 and 142.

### *Paragraph 111*

Deep concern is expressed at the gross violations of the right to be protected from discrimination and at the impact of discrimination upon children in the State party. It is noted that discrimination takes different forms including by ethnic origin, gender, geographical origin (within the country) and social status. The Committee notes that killings and other acts committed in the armed conflict, and which have affected children, have frequently been perpetrated on the basis of ethnic origin. Other forms of discrimination lead to concerns with regard to, *inter alia*, access to resources, inheritance of property, the right to a nationality and the access of girls to education. The State party does not appear to have taken fully into account either the provisions of article 2 or the Convention's other principles in its legislation and administrative and judicial practice as well as in programmes on behalf of children.

### *Paragraph 112*

The State party is urged to make every effort to end all discriminatory practices, to ensure equal respect for the rights of all children in the State party and to reinforce and ensure the implementation of existing laws related to non-discrimination. It is recommended that the State party commission and publish an independent study on the different types and causes of discrimination which affect children in the State party, with the aim of contributing to public discussion and the identification of solutions. The State party is urged to restate its commitment to protect children from discrimination and to work with national and international partners to end discrimination. The State party is further urged to use promotion of and training on child rights as a means of ending discrimination and to prosecute persons who violate non-discrimination provisions of the law.

## EQUALITY AND DISCRIMINATION - GENERAL

### *Paragraph 141*

The lack of a comprehensive policy regarding the protection of social welfare and that such protection is not equally accessible to the children of parents who are not employed in the civil service are matters of concern.

### *Paragraph 142*

In light of article 26 of the Convention, efforts should be strengthened to extend the protection of social welfare to all sectors of the population, including through systems such as the health insurance card.

- Tajikistan, CRC, CRC/C/100 (2000) 53 at paras. 287 and 288.

### *Paragraph 287*

The guarantee of non-discrimination in article 2 of the Convention may be jeopardized by the introduction of fees for State health and education services, which may pose barriers to access by low-income households.

### *Paragraph 288*

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

- Comoros, CRC, CRC/C/100 (2000) 110 at paras. 620 and 621.

### *Paragraph 620*

With regard to article 2 of the Convention, patterns of discrimination on grounds of gender, religion, ethnic origin, disability and birth or other status (e.g., children born out of wedlock) are of concern.

### *Paragraph 621*

The State party should increase its efforts to ensure the implementation of the principle of non-discrimination and its full compliance with article 2 of the Convention and address those cases which continue to occur affecting all vulnerable groups, and particularly girls, children with disabilities and children born out of wedlock. The State party is urged to give particular attention to addressing discrimination against both girls and women by reviewing domestic legislation so as to ensure that discriminatory provisions, including those affecting inheritance rights, are removed and that adequate protection from discrimination is provided.

## EQUALITY AND DISCRIMINATION - GENERAL

- Egypt, CRC, CRC/C/103 (2001) 36 at para. 225.

In accordance with article 2 of the Convention, effective measures should be taken, including enacting or rescinding civil and criminal legislation where necessary, to prevent and eliminate discrimination on grounds of sex and birth in all fields of civil, economic, political, social and cultural life. In this regard, the State party is encouraged to consider the practice of other States that have been successful in reconciling fundamental rights with Islamic texts. In concurrence with the findings of the Committee on Economic, Cultural and Social Rights (E/C.12/1/Add.4), it is recommended that the State party remove all provisions of the Nationality Law which discriminate against women, and also against children. All appropriate measures, such as comprehensive public education campaigns should be taken to prevent and combat negative societal attitudes in this regard, particularly within the family. Members of the legal profession, especially the judiciary, should be trained to be gender-sensitive. Religious leaders should be mobilized to support such efforts.

- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 383, 384 and 391.

### *Paragraph 383*

It is noted with concern that several rights contained in the Convention are not reflected in domestic law. In particular, the Basic Law and other applicable laws do not expressly guarantee non-discrimination on the basis of all the grounds contained in article 2 of the Convention. The incompatibility of certain areas of domestic law with the Convention are noted (e.g. discrimination against females and non-Muslims and the use of judicial punishments such as flogging). Many laws relevant to children's rights (i.e. personal status laws, the criminal code, and the criminal and civil procedure codes) remain uncodified.

### *Paragraph 384*

The State party should conduct a comprehensive review of the Basic Law and domestic laws, including administrative regulations and legal procedural rules, to ensure that they conform to international human rights standards, including the Convention, that they are sufficiently clear and precise, are published, and are accessible to the public.

### *Paragraph 391*

The importance of setting up an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention is emphasized. The guarantees of non-discrimination, religious freedom and due process laid down in domestic law without independent and effective mechanisms to monitor their application do not on their own ensure the enjoyment of these and other fundamental rights.

## **EQUALITY AND DISCRIMINATION - GENERAL**

- Denmark, CRC, CRC/C/108 (2001) 10 at paras. 46 and 47.

### *Paragraph 46*

The Minister of Justice has set up a committee of human rights experts to examine the advantages and disadvantages involved in incorporating the core international human rights treaties into Danish law, including the Convention on the Rights of the Child. While it is noted that the recommendations of the expert committee have not yet been finalized, concern remains about the legal status of the Convention on the Rights of the Child in domestic law.

### *Paragraph 47*

The State party should consider the incorporation of core international human rights instruments, including the Convention on the Rights of the Child, into domestic law. In this regard, the State party is urged to give equal weight to all international human rights instruments.