

EQUALITY AND DISCRIMINATION - GENERAL

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Costa Rica, CERD, A/57/18 (2002) 21 at paras. 67 and 74.

67. The Committee notes that according to article 7 of the Constitution of Costa Rica, international human rights treaties take precedence over domestic legislation. It also welcomes the fact that such treaties, insofar as they recognize a broader range of rights or guarantees than in the Constitution, take precedence over constitutional provisions. It further welcomes the fact that international human rights treaties can be invoked directly before the courts.

...

74. The Committee is concerned at the situation of indigenous people, in particular:

(a) Information according to which indigenous people living in remote regions suffer, *inter alia*, from lack of health care, education, drinking water and electricity;

(b) Problems of ownership of land; that land has reportedly been appropriated by migrants and transnational enterprises;

(c) Difficulties faced by indigenous people in obtaining public funds for the improvement of their living standards;

(d) The fact that infant mortality among indigenous communities is reportedly three times higher than the national average.

The Committee invites the State party to continue to pay due attention to the specific needs of this population. It recommends that the State party undertake the necessary measures to protect indigenous lands from being invaded and to enable the restitution of those lands that have been occupied by non-indigenous persons.

- Croatia, CERD, A/57/18 (2002) 24 at para. 91.

91. The Committee welcomes the efforts of the State party to introduce legislative reform in accordance with international standards, and to establish institutions, programmes and policies to promote equality. In particular, the Committee welcomes the adoption of the Associations Act, the establishment of the Office for Human Rights, the elaboration of a project of education aimed at achieving equality for minorities and promoting multiculturalism, the implementation of programmes of human rights education within the school environment, and the introduction of human rights training for police officers and

EQUALITY AND DISCRIMINATION - GENERAL

judges.

- Denmark, CERD, A/57/18 (2002) 27 at para. 114.

114. The Committee notes that the Act on Integration of Aliens (1998) transfers the responsibility for aliens' integration from the central to the local authorities. While the Committee welcomes the efforts by the central Government to monitor the local authorities carefully, it recommends that the State party pay particular attention to ensuring that the geographical distribution of aliens with the State party is organized on the principle of equity and does not lead to violation of their rights recognized under the Convention.

- Jamaica, CERD, A/57/18 (2002) 30 at para. 130.

130. The Committee notes that the State party has undertaken a constitutional review process intended, *inter alia*, to provide for the enactment of a Ratification of Treaties Act to ensure the incorporation of international treaty obligations into domestic legislation. Noting that this activity has been underway for some time, the Committee encourages the State party to take further measures to finalize the review process...

- Lithuania, CERD, A/57/18 (2002) 35 at para. 165.

165. The Committee...notes with satisfaction that the State party has ratified a large number of international and regional instruments in the field of human rights. The Committee particularly welcomes the announcement made by the delegation concerning the intention of the State party to consider making the declaration under article 14 of the Convention.

- Qatar, CERD, A/57/18 (2002) 38 at para. 197.

197. The Committee notes that the State party's legislation does not, in principle, allow members of different religions to inherit from each other; it has learned from the delegation's explanations that a Muslim can draw up a will in favour of a non-Muslim. The Committee emphasizes that such a situation should not result in certain categories of people being excluded from the right to inherit, given the requirements of article 5(d) (iv) of the Convention...

- Republic of Moldova, CERD, A/57/18 (2002) 41 at para. 213.

EQUALITY AND DISCRIMINATION - GENERAL

213. The Committee notes with satisfaction the efforts undertaken by the State party to ensure the promotion and protection of human rights through the adoption of the 1994 Constitution, which guarantees a wide spectrum of human rights, the 1990 Citizenship Law, the entry into force of the 1997 Law on Public Associations, the 1995 Law on the Press, the Laws on Public Education and Audio-Visual Broadcasting, the 1994 Law on Libraries and the proposed amendments in line with various treaty obligations.

- Switzerland, CERD, A/57/18 (2002) 46 at paras. 245 and 256.

245. The Committee notes with satisfaction that a number of recent reforms of cantonal constitutions have included provisions prohibiting discrimination.

...

256. The Committee is...concerned about the situation of travellers, including Roma and Jenish, in Switzerland and hopes that efforts will continue to be made to improve their living and working conditions.

- Turkmenistan, CERD, A/57/18 (2002) 49 at para. 265.

265. The Committee...notes with deep concern that, according to information received, only the Russian Orthodox Church and the Sunni branch of Islam enjoy legal status, while other confessions are denied registration by the State party and their members are subject to increased persecution, such as disruption of religious services, including in private homes, prohibition of literature, detentions and ill-treatment of religious leaders, destruction of places of worship and restriction of freedom of movement imposed on religious leaders, which may be in contravention with article 5 of the Convention.

- Armenia, CERD, A/57/18 (2002) 50 at para. 282.

282. The Committee is concerned about reports of obstacles imposed on religious organizations other than the Armenian Apostolic Church, such as those on carrying out charity work and on building places of worship. It urges the Government to take all necessary measures to ensure freedom of religion to all, without discrimination.

- Botswana, CERD, A/57/18 (2002) 53 at para. 301.

EQUALITY AND DISCRIMINATION - GENERAL

301. The Committee is concerned by the discriminatory character of certain domestic laws, such as the Chieftainship Act and the Tribal Territories Act, which only recognize the Tswana-speaking tribes. Other tribes, especially the Basarwa/San peoples, are reported to suffer from cultural, social, economic and political exclusion, do not enjoy group rights to land, and do not participate in the House of Chiefs. Noting that the amendment of sections 77 to 79 of the Constitution is currently in process, the Committee recommends that recognition and representation of all tribes in Botswana on an equal basis be ensured in the Constitution, and that the Chieftainship Act and the Tribal Territories Act be amended accordingly.

- Canada, CERD, A/57/18 (2002) 56 at paras. 327 and 336.

327. The Committee notes that the Canadian Charter of Rights and Freedoms does not impose obligations on non-state actors and suggests that the possibility of enlarging the scope of this instrument in that respect be considered.

...

336. The Committee notes with concern that current immigration policies, in particular the present level of "right of landing fee", may have discriminatory effects on persons coming from poorer countries. The Committee is also concerned about information that most foreigners who are removed from Canada are Africans or of African descent. The Committee recommends that greater attention be given to the possible discriminatory effect of Canadian immigration policies.

- Estonia, CERD, A/57/18 (2002) 60 at para. 359.

359. Although it welcomes the elimination of the language requirements from the Election Act and the Local Government Council Election Act, the Committee expresses concern that, according to article 48 of the Estonian Constitution, only citizens can be members of political parties. Furthermore, the Committee considers it important that political bodies of towns with a majority of Russian-speaking inhabitants are offered the possibility of conducting their work also in Russian, as stipulated in the Law on Languages and in the Local Government Organization Act...

- Hungary, CERD, A/57/18 (2002) 63 at para. 371.

371. ...The Committee notes the positive elements incorporated in Law Decree No.11 of 1997 modernizing certain provisions of the Rules on the Enforcement of Punishment, with a view to prohibiting discrimination among convicted persons and ensuring basic rights of

EQUALITY AND DISCRIMINATION - GENERAL

foreign convicted persons, and in Act CX of 1999 amending the Code of Civil Procedure so as to reinforce the principle that no one shall be discriminated against because of lack of knowledge of the Hungarian language.

- New Zealand, CERD, A/57/18 (2002) 69 at paras. 417 and 430.

417. The Committee welcomes the examination by the New Zealand Human Rights Commission of all domestic acts, regulations, government policies and administrative practices with a view to assessing their consistency with the anti-discrimination provisions of the Human Rights Act, a programme known as Consistency 2000. It further welcomes the comprehensive audit process undertaken by the Government to identify and resolve possible inconsistencies between the Human Rights Act and other legislation and regulations, known as Compliance 2001.

...

430. The Committee notes the extensive work currently under way to review constitutional arrangements for Tokelau. It encourages the State party to ensure that, while giving due attention to the culture and customs of the people of Tokelau, human rights obligations are woven appropriately into any new constitutional arrangements.

- Senegal, CERD, A/57/18 (2002) 72 at para. 445.

445. The Committee notes with concern the continuing legacy in Senegal of aspects of a caste-based system, despite its having been banned by law. It recommends that the State party ensure that the existing provisions are effectively applied, including by taking steps to guarantee access to justice for victims, in accordance with its general recommendation XXVI.

- Côte d'Ivoire, CERD, A/58/18 (2003) 19 at paras. 25, 36 and 39.

25. The Committee welcomes the Government's declaration of principle on human rights contained in its information paper describing its efforts to guarantee respect for human rights in the current crisis situation. The Committee also notes that a free telephone line has been made available to enable any victim of a human rights violation to contact the Ministry of Human Rights.

...

36. The Committee recommends that the State party continue its efforts to adopt legislation or regulations which define the respective spheres of competence of the National Human Rights Commission and the Ombudsman's Office, spell out the procedure for bringing cases before them and determine whether their decisions are binding. More specifically, the

EQUALITY AND DISCRIMINATION - GENERAL

Committee invites the State party to strengthen the guarantees of independence of these bodies so that their activities will be effective and credible, particularly for the purposes of mediation. To this end, the State party should take the appropriate measures to inform the public of the remedies available to the victims of acts of discrimination or xenophobia.

...

39. The Committee recalls the State party's request to have an international commission of inquiry set up to carry out investigations and establish the facts throughout the national territory in order to identify cases of serious violations of human rights and international humanitarian law since 19 September 2002. The Committee urges the State party to take the necessary measures and create the necessary conditions for such an inquiry and to include all the information on this question in its next periodic report.

- Fiji, CERD, A/58/18 (2003) 25 at paras. 75, 77, 84 and 94.

75. The Committee notes the State party's intention to promote stability in the multi-ethnic and multicultural Fijian society, to restore and rebuild confidence among its citizens and communities and to strengthen the foundation for economic growth and prosperity for all in Fiji. It welcomes the creation of a Ministry of Reconciliation to help unite all Fijians.

...

77. The Committee expresses its appreciation for the inclusion, in the 1997 Constitution of Fiji, of a Social Justice Chapter (sect. 44), calling for the elaboration of programmes designed to achieve, for all groups or categories of persons who are disadvantaged, effective equality of access to education and training, land and housing, and participation in commerce and all levels and branches of State public services.

...

84. The Committee welcomes the commitment of the State party to ensure the social and economic development as well as the right to cultural identity of the indigenous Fijian community. None of these programmes, however, should abrogate or diminish the enjoyment of human rights for all, which can be limited solely in accordance with the rules and criteria established under international human rights law. In this regard, the Committee strongly urges the State party to ensure that the affirmative action measures it adopts to pursue the above objectives are necessary in a democratic society, respect the principle of fairness, and are grounded in a realistic appraisal of the situation of indigenous Fijians as well as other communities. The Committee further recommends that the State party guarantee that the special measures adopted to ensure the adequate development and protection of certain ethnic groups and their members in no case lead to the maintenance of unequal or separate rights for different ethnic groups after the objectives for which they were taken have been achieved (article 1, paragraph 4, and article 2, paragraph 2, of the Convention).

...

94. The Committee recommends that the State party continue to support the activities of the

EQUALITY AND DISCRIMINATION - GENERAL

National Human Rights Commission. It would like to receive more information about the results of its activities, as well as on the practical implications of article 27 of the Human Rights Commission Act, authorizing the Commission not to investigate a case when it “has before it matters more worthy of its attention” or when the “resources of the Commission are insufficient for adequate investigation”.

- Ghana, CERD, A/58/18 (2003) 30 at para. 107.

107. The Committee appreciates the approach adopted by the State party that seeks to respect the customs and traditions of various ethnic groups on its territory, while at the same time enhancing the enjoyment of human rights for all. It further notes that, under article 26 of the Constitution, which protects cultural rights, customary practices which dehumanize or are injurious to the physical and mental well-being of a person are prohibited.

- Morocco, CERD, A/58/18 (2003) 33 at para. 147.

147. The Committee notes the submission in November 2002 to the House of Representatives of two bills: one relating to “foreigners’ entry into and residence in the Kingdom of Morocco, illegal immigration and emigration”, and the other to terrorism, and draws the State party’s attention to the statement on racial discrimination and measures to combat terrorism adopted by the Committee on 8 March 2002 (A/57/18, chap. XI, sect. C).

- Russian Federation, CERD, A/58/18 (2003) 38 at para. 185.

185. The Committee is concerned that Chechens who have sought refuge outside Chechnya in the territory of the State party are denied forced migrant status. The Committee encourages the State party to take effective measures to ensure that no group is discriminated against in the granting of forced migrant status.

- Saudi Arabia, CERD, A/58/18 (2003) 41 at paras. 206, 210 and 211.

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

...

EQUALITY AND DISCRIMINATION - GENERAL

210. While noting that the Basic Law, and provisions of Royal Decrees, regulations and codes, as well as the Islamic Shariah, guarantee equality, the Committee is of the opinion that the mere statement of the general principle of non-discrimination in these laws is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt legislation that meets the requirements of articles 2, 3 and 4 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda.

211. Moreover, the Committee emphasizes that guarantees of non-discrimination laid down in law, without mechanisms to monitor their application, do not on their own ensure the enjoyment of non-discrimination...

- Slovenia, CERD, A/58/18 (2003) 45 at paras. 232, 233 and 240.

232. The Committee is encouraged by the entry into force, in December 2002, of the Act amending the Citizenship Act of 1991 concerning the procedure for the acquisition of citizenship of the Republic of Slovenia for specific categories of persons residing in Slovenia.

233. The Committee is encouraged by the recent steps taken by the State party with a view to further implementing the Convention, such as the adoption of specific anti-discrimination legislation, *inter alia*, the Act on Media 2001, the Resolution on Migration Policy 2002, the Act amending the Local Government Act 2002, the Exercising of the Public Interest in Culture Act 2002 and the Employment Act 2002).

...

240. The Committee is encouraged by the steps taken by the State party to address the long-standing issue of persons living in Slovenia who have not been able to obtain citizenship. It is nevertheless concerned that many of the persons who have not acquired Slovenian citizenship may still experience administrative difficulties in complying with the specific requirements contained in the law. The Committee recommends that the State party give priority to addressing this issue and, taking into account the difficulties which have arisen, ensure that the new citizenship legislation is implemented in a non-discriminatory manner.

- Tunisia, CERD, A/58/18 (2003) 47 at para. 249.

249. The Committee welcomes the fact that, pursuant to article 32 of the Constitution, international instruments ratified by the State party, including the International Convention on the Elimination of All Forms of Racial Discrimination, take precedence over norms of the State party's domestic law, and may be invoked directly before the Courts.

EQUALITY AND DISCRIMINATION - GENERAL

- Uganda, CERD, A/58/18 (2003) 50 at para. 279.

279. The Committee encourages the State party to provide support to the Ugandan Human Rights Commission and to take into consideration the recommendations that the Commission submits to Parliament...

- Albania, CERD, A/58/18 (2003) 53 at para. 300.

300. The Committee commends the action taken by the Albanian authorities against organized crime and corruption, which are particularly harmful to the most vulnerable social groups.

- Bolivia, CERD, A/58/18 (2003) 58 at para. 335.

335. The Committee commends the State party's efforts aimed at ensuring that members of the indigenous peoples - which, according to the 2001 census, represent 61.8 per cent of the whole population - are free and equal in dignity and rights and free from any discrimination, including legal provisions aimed at recognizing the title to and ownership of land of indigenous groups and individuals as well as the right to exclusive benefit of renewable natural resources situated on their lands. In this respect, the Committee especially welcomes the establishment of the Agrarian Court.

- Cape Verde, CERD, A/58/18 (2003) 62 at para. 363.

363. The Committee notes with concern that immigrants from the Economic Community of Western African States (ECOWAS) are often referred to as "Mandjaco", a term which may have negative connotations. It also notes instances of discrimination against members of communities coming from ECOWAS countries on account of the involvement of some of them in antisocial practices such as drug-trafficking and prostitution.

The Committee recommends that the State party take appropriate measures to combat stereotyping of certain groups of immigrants...

- Czech Republic, CERD, A/58/18 (2003) 65 at para. 380.

380. While noting the efforts of the Government to elaborate a comprehensive anti-discrimination law, the Committee is concerned about the difficulties faced during this

EQUALITY AND DISCRIMINATION - GENERAL

process.

The Committee encourages the State party to complete its efforts with regard to the comprehensive anti-discrimination law promptly and subsequently to ensure its effective enforcement. It urges the State party to incorporate in the new law the definition of discrimination as stipulated in article 1 (1) of the Convention.

- Finland, CERD, A/58/18 (2003) 69 at para. 404.

404. The Committee is of the opinion that the State party's approach to the definition of who may be considered a Sami and thus fall under the relevant legislation established in favour of the Sami, as illustrated by the Act on the Sami Parliament and the specific interpretation placed thereon by the Supreme Administrative Court, is too restrictive.

The Committee considers that by relying mainly, if not exclusively, on the criteria of the language spoken and the taxes levied on a person's ancestors, the State party is not taking into account to a sufficient degree the criterion of self-identification. Accordingly, the Committee suggests that the State party give more adequate weight to self-identification by the individual, as indicated in general recommendation VIII.

- Latvia, CERD, A/58/18 (2003) 75 at para. 444.

444. The Committee is concerned that the legal provisions defining racial discrimination are not in full conformity with article 1 (1) of the Convention. While acknowledging that amendments to the 2001 Labour Law are being prepared that will define indirect discrimination, the Committee notes that basing the finding of indirect discrimination on a quantitative condition is not in accordance with the Committee's general recommendation XIV. Furthermore, it notes that the relevant provisions of the Labour Law and the Criminal Law lack reference to certain grounds of discrimination enumerated in the Convention, and that these provisions do not fully cover civil, political, economic, social, cultural and other fields of public life, as required by the Convention.

The Committee recommends that the State party pursue its efforts with regard to the preparation of a comprehensive anti-discrimination law and of amendments to the Labour Law. It urges the State party to incorporate fully the definition of racial discrimination stipulated in article 1 (1) of the Convention, into its legislation.

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

EQUALITY AND DISCRIMINATION - GENERAL

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

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

- Saint Vincent and the Grenadines, CERD, A/58/18 (2003) 85 at paras. 506, 507 and 512.

506. The Committee welcomes the information provided by the State party on the content of its Constitution regarding human rights, and in particular the right not to be discriminated against.

507. The Committee welcomes the fact that under section 16 of the Constitution, any individual alleging that his/her rights, as enshrined in the Constitution, have been violated can apply to the High Court for redress.

...

512. The Committee is concerned that the Constitution does not contain reference to economic, social and cultural rights. The Committee further notes that section 16 of the Constitution has never been invoked with respect to alleged acts of racial discrimination.

The Committee recommends that the State party ensure, as provided in articles 5 and 6 of the Convention, the enjoyment by all of effective protection and remedies against acts of racial discrimination which violate human rights, including economic, social and cultural rights. The Committee further recommends that the State party consider whether the lack of complaints relating to racial discrimination before the High Court is not the result of the victims' lack of awareness of their rights, the lack of confidence on the part of individuals in the judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination...

- United Kingdom of Great Britain and Northern Ireland, CERD, A/58/18 (2003) 88 at paras. 541 and 544.

541. While reiterating its satisfaction in connection with the enactment of the Human Rights Act of 1998, the Committee notes that no central body has been established to implement the Act. The Committee considers that the absence of such a body may undermine the effectiveness of the Act.

The Committee refers to the earlier commitment of the State party to consider establishing

EQUALITY AND DISCRIMINATION - GENERAL

a Human Rights Commission in order to enforce the Act and the possibility of granting such a commission comprehensive competence to review complaints of human rights violations, and recommends an early decision in this regard.

...

544. The Committee recalls its general recommendation XXIX, in which the Committee condemns descent-based discrimination, such as discrimination on the basis of caste and analogous systems inherited status, as a violation of the Convention, and recommends that a prohibition against such discrimination be included in domestic legislation...

- Malawi, CERD, A/58/18 (2003) 93 at paras. 555, 557 and 562.

555. The Committee welcomes the establishment of the Malawi Human Rights Commission in 1999, endowed with the task of protecting and promoting human rights, investigating human rights violations and following up individual complaints.

...

557. The Committee recalls that, as stated in its general recommendation XX, article 5 of the Convention implies the existence and recognition of civil, political, economic, social and cultural rights and expresses its grave concern about reports of serious human rights violations. The Committee underlines that full respect for human rights is the necessary framework for the efficiency of measures adopted to combat racial discrimination.

The Committee recommends that the State party take the necessary measures to implement the Convention.

...

562. The Committee is concerned that the budgetary constraints facing the Malawi Human Rights Commission may limit its effectiveness.

The Committee...recommends that information on the functions and activities of the Malawi Human Rights Commission be disseminated both in English and in Chichewa.

- Bahamas, CERD, A/59/18 (2004) 10 at para. 23.

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

- Lebanon, CERD, A/59/18 (2004) 18 at paras. 84 and 85.

84. While acknowledging the political factors related to the presence of Palestinian refugees in Lebanon, the Committee reiterates its concern with regard to the enjoyment by the

EQUALITY AND DISCRIMINATION - GENERAL

Palestinian population present in the country of all rights stipulated in the Convention on the basis of non-discrimination, in particular access to work, health care, housing and social services as well as the right to effective legal remedies. The Committee notes the statement of the delegation that the 2001 property law does not apply retroactively and that Palestinians' right to inherit remains in force.

The Committee urges the State party to take measures to ameliorate the situation of Palestinian refugees with regard to the enjoyment of the rights protected under the Convention, and at a minimum to remove all legislative provisions and change policies that have a discriminatory effect on the Palestinian population in comparison with other non-citizens.

85. The Committee notes that Lebanese citizenship is derived exclusively from the father, which may result in a situation of statelessness for children of a Lebanese mother and non-citizen father, where registration under the father's nationality is not possible.

The Committee urges the State party to review its relevant legislation, so as to bring it in line with the provisions of the Convention...In addition, the Committee recommends that the State party ratify the Convention on the Reduction of Statelessness of 1961.

- Libyan Arab Jamahiriya, CERD, A/59/18 (2004) 21 at para. 104.

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

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

- Nepal, CERD, A/59/18 (2004) 24 at paras. 124, 127 and 132.

124. The Committee expresses concern over the effects of the insurgency, especially its impact on vulnerable groups, who are particularly affected. It is also concerned that this has also resulted in the diversion of State resources away from social and development programmes.

While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with its human rights obligations, in particular regarding members of vulnerable groups, and allocate its budgets accordingly. Furthermore, the Committee underscores the importance of the restoration of Parliament in order to expedite the process of resuming normality in the country.

EQUALITY AND DISCRIMINATION - GENERAL

...

127. The Committee remains deeply concerned at the persistence of the *de facto* caste-based discrimination and the culture of impunity that apparently permeates the higher strata of a hierarchical social system. In particular, it is concerned at information on the existence of segregated residential areas for Dalits, social exclusion of inter-caste couples, restriction to certain types of employment, and denial of access to public spaces, places of worship and public sources of food and water, as well as at allegations that public funds were used for the construction of separate water taps for Dalits.

The Committee recommends that the State party, as a matter of priority, take measures to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind, and make determined efforts to ensure the practical and effective implementation of these measures...

...

132. While welcoming the State party's efforts to implement special measures to advance and protect persons subjected to discrimination, the Committee remains concerned over the underrepresentation of disadvantaged groups in government, legislative bodies and the judiciary.

The Committee urges the State party to engage in efforts to promote awareness among the general public, as well as among members of disadvantaged communities, of the importance of their active participation in public and political life. The Committee recommends that the State party continue to enforce special measures to guarantee to members of disadvantaged groups the right to participate in elections, to vote and stand for election, and to have due representation in government, legislative bodies and the judiciary.

- Argentina, CERD, A/59/18 (2004) 45 at paras. 235, 241 and 251.

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

...

(b) Migrants' access to basic rights such as education and health irrespective of their migration status;

(c) That migrants may only be expelled pursuant to a judicial order; and

...

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

The Committee calls upon the State party to enact measures to implement the law without

EQUALITY AND DISCRIMINATION - GENERAL

delay, taking full account of the principle of non-discrimination. The Committee furthermore recommends that the State party conduct a public information and awareness-raising campaign and provide training courses for all governmental authorities at the national, provincial and municipal levels on the changes contained in the new law.

...

251. The Committee remains concerned at the slow pace of the proceedings relating to the 1992 and 1994 attacks in Buenos Aires on the Israeli Embassy and the Argentine-Jewish Mutual Association.

The Committee recommends that, in accordance with article 6 of the Convention, these proceedings be completed by the State party as a matter of urgency so as to comply with its obligation to ensure the right to just and adequate reparation and compensation for damage suffered as a result of human rights violations.

- Kazakhstan, CERD, A/59/18 (2004) 54 at para. 295.

295. The Committee notes with concern that, with the exception of the judges of the Supreme Court, all the judges are appointed by the President, who also determines the organization of the work of the courts.

The Committee recommends that the State party strengthen the independence of the judiciary and other State organs in order to provide everyone with effective protection and remedies against any acts of violation of the Convention...

- Madagascar, CERD, A/59/18 (2004) 58 at paras. 319 and 321.

319. The Committee notes with concern that some regions of the country are harder hit than others by the low level of economic development, with lower literacy rates and life expectancy in particular, even if the lack of technical and financial resources objectively contributes to these disparities.

The Committee points out that the principle of non-discrimination is not subject to the availability of resources, and calls on the State party to ensure that existing resources are distributed fairly among the various regions of the country. As indirect discrimination is forbidden under the Convention, the Committee draws the attention of the State party to the ethnic dimension that these inequalities could have, and invites it to adopt special measures that could be necessary under article 2, paragraph 2, of the Convention.

...

321. The Committee notes that neither the National Human Rights Commission nor the Office of the Ombudsman has the power to hear and consider individual complaints.

EQUALITY AND DISCRIMINATION - GENERAL

The Committee recommends that the State party strengthen the powers of these two institutions, by conferring on them the power to hear and consider complaints and to make recommendations prior to the intervention of judicial authorities. The Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134) should be applied where the National Human Rights Commission is concerned.

- Portugal, CERD, A/59/18 (2004) 66 at paras. 363 and 368.

363. The Committee...welcomes the several mechanisms established to assist immigrants in Portugal, such as the Observatory of Immigration, the Call Centre “SOS Immigrant” and the local and national support centres for immigrants.

...

368. The Committee notes that immigrants from Central and Eastern Europe are reportedly more easily accepted and integrated into Portuguese mainstream society than other immigrants, especially Africans. The Committee expresses concern that this phenomenon of “two-speed” integration may result in *de facto* discrimination against certain groups of immigrants.

The Committee recommends that the State party take all possible measures to promote and ensure the enjoyment of equal opportunities to all immigrants in the country, irrespective of their origin.

- Tajikistan, CERD, A/59/18 (2004) 74 at paras. 403, 409 and 417.

403. The Committee notes with appreciation that Tajik law guarantees the freedom of citizens to choose their language of instruction and to use their language when dealing with government bodies and authorities, enterprises, institutions and associations.

...

409. The Committee is concerned that, according to some information, refugees have been denied Tajik citizenship despite the fact that they comply with the requirements set out in the Law “On Citizenship”.

The Committee draws the attention of the State party to its general recommendation XXX on discrimination against non-citizens and recommends that it apply the Law “On Citizenship” without discrimination, as requested in article 5 (d) (iii) of the Convention.

...

417. The Committee regrets the lack of information on action taken by the State party to enhance better understanding, respect and tolerance between ethnic groups in Tajikistan, in particular on programmes, if any, that have been adopted to ensure intercultural education.

EQUALITY AND DISCRIMINATION - GENERAL

The State party should adopt measures to promote intercultural understanding and education between ethnic groups, in particular in the areas of teaching, education, culture and information...

- Australia, CERD, A/60/18 (2005) 13 at paras. 44 and 45.

44. The Committee is concerned at reports according to which temporary protection visas granted to refugees who arrive without a valid visa do not make them eligible for many public services, do not imply any right to family reunion, and make their situation precarious. It is further reported that migrants are denied access to social security for a two-year period upon entry into Australia (art. 5).

The Committee...recommends that the State party review its policies, taking into consideration the fact that, under the Convention, differential treatment based on citizenship or immigration status would constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of that aim.

45. The Committee, while acknowledging the efforts undertaken by the State party to achieve reconciliation and having taken note of the 1999 Motion of Reconciliation, is concerned about reports that the State party has rejected most of the recommendations adopted by the Council for Aboriginal Reconciliation in 2000 (art. 6).

The Committee encourages the State party to increase its efforts with a view to ensuring that a meaningful reconciliation is achieved and accepted by the indigenous peoples and the population at large. It reiterates its recommendation that the State party consider the need to address appropriately the harm inflicted by the forced removal of indigenous children.

- Bahrain, CERD, A/60/18 (2005) 22 at para. 82.

82. The Committee takes note of the abolition of the Human Rights Committee which was designed to provide advice to the Head of State and to the executive authorities on a wide range of human rights issues, including those matters relating specifically to the Convention. Furthermore, the Committee regrets that there is no national human rights institution in Bahrain.

The Committee recommends to the State party that it consider the establishment of a national

EQUALITY AND DISCRIMINATION - GENERAL

human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex).

- France, CERD, A/60/18 (2005) 26 at paras. 106, 110, 116 and 118.

106. While taking note of the Act of 1 August 2003 on general principles and planning for cities and urban renewal, the Committee remains concerned at the unfavourable situation faced by immigrants and population groups of immigrant origin in the field of housing.

The Committee calls on the State party to strengthen its policy for the integration of immigrants and population groups of immigrant origin, especially in the field of housing, and draws its attention to the Committee's general recommendation XIX on article 3 of the Convention and general recommendation XXX on discrimination against non-citizens. The Committee invites the State party to follow the recommendations in this area as set out in the report of the Court of Audit...

...

110. While it appreciates the State party's oral and written responses to questions relating to the situation of travellers, the Committee remains concerned at delays in the effective application of the Act of 5 July 2000 on the reception and housing of travellers and the persistent difficulties travellers encounter in such fields as education, employment and access to the social security and health system.

The Committee reminds the State party of its general recommendation XXVII on discrimination against Roma and recommends that it should step up its efforts to provide travellers with more parking areas equipped with the necessary facilities and infrastructures and located in clean environments, intensify its efforts in the field of education and combat the phenomena of exclusion of travellers more effectively, including in the fields of employment and access to health services.

...

116. The Committee is concerned that for some local population groups in its overseas communities, the fact that they do not have a full command of French constitutes an obstacle to their enjoyment of their rights, particularly the right to access to justice.

In order to enable all those under the jurisdiction of the State party in its overseas communities to exercise their rights fully, the Committee recommends to the State party that it should take all appropriate steps to ensure that local population groups in overseas communities who do not have a command of French benefit from the services of translators/interpreters, especially in their contacts with the system of justice.

...

118. While the Committee takes note of the measures taken to settle the question of foreign

EQUALITY AND DISCRIMINATION - GENERAL

veterans' pensions, it remains concerned at the continued differential treatment of such persons as compared with veterans who are French nationals.

The Committee encourages the State party to find a definitive solution to the question of foreign veterans' pensions by applying the principle of equal treatment.

- Ireland, CERD, A/60/18 (2005) 30 at paras. 136, 140, 143, 145 and 146.

136. While noting the existence, in the area of the application of the Convention, of a diversified NGO community in Ireland and welcoming in particular the establishment by the State party of several independent institutions and judicial bodies in the field of human rights and non-discrimination, as referred to in paragraph 4 above, the Committee wishes to underscore the importance of providing adequate resources to these institutions, in order to enable them to efficiently and effectively exercise their duties and functions (art. 2).

The Committee recommends that the State party provide the newly established institutions in the field of human rights and non-discrimination with adequate funding and resources to enable them to exercise the full range of their statutory functions, and also support the NGO community.

...

140. The Committee notes the reported occurrence of discriminatory treatment against foreign nationals entering Ireland during security checks at airports (art. 5).

The Committee encourages the State party to review its security procedures and practices at entry points with a view to ensuring that they are carried out in a non-discriminatory manner.

...

143. The Committee is concerned that the non-discrimination requirement stipulated in the 2000 Equal Status Act only covers government functions falling within the definition of a "service" as defined by the Act itself (art. 5 (f)).

In order to ensure comprehensive protection against discrimination by public authorities, the Committee urges the State party to consider expanding the scope of the Equal Status Act so as to cover the whole range of government functions and activities, including controlling duties.

...

145. While noting the efforts made so far by the State party with regard to the situation of members of the Traveller community in the field of health, housing, employment and education, the Committee remains concerned about the effectiveness of policies and measures in these areas (art. 5 (e)).

EQUALITY AND DISCRIMINATION - GENERAL

The Committee recommends to the State party that it intensify its efforts to fully implement the recommendations of the Task Force on the Traveller community, and that all necessary measures be taken urgently to improve access by Travellers to all levels of education, their employment rates as well as their access to health services and to accommodation suitable to their lifestyle.

146. The Committee notes that members of the Traveller community are not adequately represented in the State party's political institutions and do not effectively participate in the conduct of public affairs (art. 5 (c)).

The Committee invites the State party to consider adopting affirmative action programmes to improve the political representation of Travellers, particularly at the level of Dáil Eireann (Lower House of Parliament) and/or Seanad Eireann (Upper House of Parliament (Senate)).

- Lao People's Democratic Republic, CERD, A/60/18 (2005) 35 at para. 165.

165. The Committee is concerned at the situation with respect to independent non-governmental organizations (NGOs) working in the area of human rights and the prevention of discrimination (art. 2).

The Committee invites the State party to pave the way for the emergence of independent national NGOs.

- Georgia, CERD, A/60/18 (2005) 46 at paras. 244 and 249.

244. The Committee regrets the lack of information in the State party report on the fundamental rights of non-citizens temporarily or permanently residing in Georgia, regarding the effective enjoyment, without discrimination, of the rights mentioned in article 5 of the Convention (art. 5).

Drawing the attention of the State party to its general recommendation XXX on discrimination against non-citizens, the Committee recommends that the State party ensure the effective enjoyment, without discrimination, of the rights mentioned in article 5 of the Convention, in particular their access to justice and right to health.

...

249. While noting the existence of an Ombudsman, the Committee regrets the insufficiency of detailed information regarding the independence, competencies and effectiveness of this institution (art. 6).

The Committee...encourages the State party to strengthen this institution and provide it with

EQUALITY AND DISCRIMINATION - GENERAL

adequate resources so as to allow it to function as an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

- Iceland, CERD, A/60/18 (2005) 51 at paras. 259 and 267.

259. The Committee notes with satisfaction that recent legislative changes enhance the legal status of foreign nationals, such as the Act on the Employment Rights of Foreign Nationals in 2002, the amendment in 2002 of the Municipal Elections Act extending the right to vote in municipal elections and eligibility for municipal office to foreign nationals, as well as the application for the first time of this amendment in the municipal elections of 2002, when some 1,000 foreign nationals availed themselves of their right to vote.

...

267. While noting that the purpose of the requirement that a foreign “spouse or partner in cohabitation or registered partnership of a person lawfully staying in Iceland” must be 24 years of age or older to obtain a permit to stay as a family member is to prevent forced or sham marriages, the Committee is nevertheless concerned that this requirement may have discriminatory effects, bearing in mind that the minimum age of marriage under the Icelandic Marriage Act No. 31/1993 is 18 years (art. 5 (d) (iv)).

The Committee recommends that the State party reconsider this age requirement and explore alternative means of preventing forced or sham marriages.

- Nigeria, CERD, A/60/18 (2005) 54 at paras. 282 and 283.

282. The Committee welcomes the establishment of the National Inter-religious Council and of the Institute for Peace and Conflict to promote inter-ethnic, intercommunal and interreligious harmony. It also welcomes the creation of the National Revenue Allocation System, which aims to improve the distribution of resources among different States.

283. The Committee welcomes the establishment of human rights desks in police stations to deal with complaints relating to human rights violations committed by members of the police force.

- Turkmenistan, CERD, A/60/18 (2005) 61 at paras. 322 and 323.

322. The Committee notes that, in 2003, the bilateral agreement between the Russian Federation and Turkmenistan on dual citizenship was repealed by the State party. It notes

EQUALITY AND DISCRIMINATION - GENERAL

with concern that persons who chose Russian citizenship were allegedly required to leave the country rapidly (arts. 2 and 5).

The Committee, stressing that deprivation of citizenship on the basis of national or ethnic origin is a breach of the obligation to ensure non-discriminatory enjoyment of the right to nationality, urges the State party to refrain from adopting any policy that directly or indirectly leads to such deprivation. The Committee draws the attention of the State party to its general recommendation XXX on non-citizens...

323. The Committee, while stressing the complex relationship between ethnicity and religion in Turkmenistan, notes with concern information that members of religious groups do not fully enjoy their rights to freedom of religion and that some religious confessions remain unregistered. It notes, however, the relaxation of registration rules in 2004.

The Committee recalls the State party's obligation to ensure that all persons enjoy their right to freedom of religion, without any discrimination based on national or ethnic origin, in accordance with article 5 (d) of the Convention. The State party should accordingly respect the right of members of registered and unregistered religions to freely exercise their freedom of religion, and register religious groups who wish to be registered...

- United Republic of Tanzania, CERD, A/60/18 (2005) 67 at paras. 342 and 354.

342. The Committee welcomes the establishment of the Commission for Human Rights and Good Governance with, *inter alia*, competence to conduct inquiries into complaints of human rights violations and to disseminate information on human rights.

...

354. While noting that a reform of the legal sector has been undertaken and that the issue of access to justice is being considered, the Committee remains concerned about the difficulties of access to justice, especially for the poor and members of minority groups (arts. 5 and 6).

The Committee recommends that the State party take the necessary measures to establish mechanisms to improve the capacity and efficiency of the judicial system, so as to ensure access to justice to all without discrimination, and to establish mechanisms to provide legal aid to all members of vulnerable groups.

- Zambia, CERD, A/60/18 (2005) 75 at para. 397, 399-401 and 408.

397. The Committee, while welcoming the establishment of a Constitution Review Commission in 2003, reiterates its concern that article 23 of the Constitution, which allows

EQUALITY AND DISCRIMINATION - GENERAL

for extended restrictions to the prohibition of discrimination with respect to non-citizens, matters of personal law and of customary law, is not in compliance with the Convention (art. 1).

The Committee recommends to the State party that it facilitate the constitutional review process and amend article 23 (4) of the Constitution so as to ensure the full implementation of the prohibition of racial discrimination. The Committee draws the attention of the State party to its general recommendation XXX (2004) on non-citizens. It also stresses that respect for customary law and practices should not be ensured through a general exception to the principle of non-discrimination, but should rather be implemented through positive recognition of cultural rights.

...

399. The Committee is concerned in particular that, under article 11 of the Constitution, the right of everyone not to be discriminated against is applicable to a limited list of mainly civil and political rights, and that the Directive Principles of State Policy, also included in the Constitution, do not contain any non-discrimination clause with regard to economic, social and cultural rights. It further regrets the lack of precise information regarding legislation prohibiting racial discrimination in the enjoyment of civil, political, economic, social and cultural rights, and its implementation in practice (arts. 1, 2 and 5).

The Committee recommends to the State party that it guarantee the right of everyone not to be discriminated against in the enjoyment of civil, political, economic, social, and cultural rights...

400. The Committee notes the 1996 amendment to the Constitution, which requires that a presidential candidate be a second-generation Zambian.

The Committee recommends to the State party that it review this provision so as to ensure full compliance with article 5 (c) of the Convention.

401. The Committee notes with concern the decision of the State party to appeal the High Court judgement in the case *Roy Clarke v. Attorney-General*, which quashed a deportation order concerning a British long-term resident on the basis that he would not have been punished for his journalistic activities if he were a Zambian citizen (art. 5 (d) (viii)).

The Committee recalls that under the Convention, differential treatment based on citizenship constitutes discrimination if the criteria for such differentiation are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim. It recommends to the State party that it respect the right to freedom of expression without any discrimination based on citizenship...

...

408. The Committee notes with concern the difficulties encountered by the Zambian Human

EQUALITY AND DISCRIMINATION - GENERAL

Rights Commission as described in the report, in particular inadequate staffing, inadequate means of transportation, centralization, and slow response from concerned State authorities to the Commission's requests for action. It notes with interest, however, the State party's plan to decentralize the Commission's offices and the information that the new draft Constitution contains provisions enhancing the effectiveness of the Commission (art. 6).

The Committee recommends that the State party increase its efforts to enhance the effectiveness of the Human Rights Commission, in particular through adequate budget allocations. The Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134) should be taken into consideration in the elaboration of the constitutional reform relating to the Human Rights Commission...

ICCPR

- Ukraine, ICCPR, A/57/40 vol. I (2002) 32 at paras. 74(8) and 74(20).

(8) The Committee is concerned that in the case of a clash between the Covenant rights and domestic laws the latter might prevail. Neither through examination of the report of the State party nor during the discussion with the delegation could the Committee obtain a clear understanding of how potential conflicts between Covenant rights and domestic laws are resolved.

The State party must ensure the effective implementation of all Covenant rights, in accordance with article 2 of the Covenant and including through independent and impartial courts of law operating in compliance with article 14.

...

(20) The Committee notes with concern the information given by the State party that conscientious objection to military service is accepted only in regard to objections for religious reasons and only with regard to certain religions, which appear in an official list. The Committee is concerned that this limitation is incompatible with articles 18 and 26 of the Covenant.

The State party should widen the grounds for conscientious objection in law so that they apply, without discrimination, to all religious beliefs and other convictions, and that any alternative service required for conscientious objectors be performed in a non-discriminatory manner.

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(7) and 75(9).

EQUALITY AND DISCRIMINATION - GENERAL

(7) The Committee regrets that the State party, while having incorporated many Covenant rights into its domestic legal order through the Human Rights Act 1998, has failed to accord the same level of protection to other Covenant rights, including the provisions of articles 26 and 27.

The State party should consider, as a matter of priority, how persons subject to its jurisdiction may be guaranteed effective and consistent protection of the full range of Covenant rights. It should consider, as a priority, accession to the first Optional Protocol.

...

(9) Although the Committee appreciates the establishment of specialist bodies to deal with various specific areas of discrimination, such as the Commission for Racial Equality, the Equal Opportunities Commission and the Disability Rights Commission, the Committee considers that the establishment of a national human rights commission with comprehensive jurisdiction to receive complaints of human rights violations would be a valuable addition to the remedies available to persons complaining of such violations, particularly persons for whom recourse to the courts is, as a practical matter, too costly, difficult or impossible.

The State party should consider the establishment of a national human rights commission to provide and secure effective remedies for alleged violations of all human rights under the Covenant.

- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), ICCPR, A/57/40 vol. I (2002) 36 at paras. 75(23) and 75(28).

(23) The Committee is deeply concerned that the protection of Covenant rights in the overseas territories is weaker and more irregular than in the metropolitan area. The Committee regrets that the provisions of the Human Rights Act 1998, which significantly improve the protection of many rights contained in the Covenant, do not extend to the overseas territories (except, to some extent, Pitcairn and St. Helena). The Committee regrets that the Covenant rights are not incorporated in the legislation of the territories, and that its provisions cannot be invoked directly before or applied by the judiciary. The consequences are especially regrettable in those overseas territories (British Virgin Islands, Cayman Islands, St. Helena and Pitcairn) whose Constitutions do not contain chapters on fundamental rights...

The State party should give priority to incorporating Covenant rights in the respective domestic legal orders of the overseas territories.

...

(28) The Committee is concerned that the categories of persons for whose deportation Cayman law provides, in particular "undesirable" or "destitute" persons, are defined in terms

EQUALITY AND DISCRIMINATION - GENERAL

that are vague and unclear, and that deportation of such persons may violate articles 17 and 23 of the Covenant. Moreover, the Committee considers that, since deportation occurs pursuant to an order issued by the Governor after having considered a magistrate's report, there is insufficient review of the appropriateness of such a measure in terms of article 13.

The State party should review its law on deportation to provide clear criteria, and effective and impartial review of any deportation decision, in order to ensure compliance with articles 17, 23 and 26.

- Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at paras. 76(3), 76(10) and 76(15).

(3) The Committee welcomes the progress made since the consideration of the State party's initial report in advancing the protection of Covenant rights. It especially notes the adoption of the revised federal Constitution, which came into force in January 2000, which contains a bill of rights.

...

(10) The Committee is concerned that legislation protecting individuals against discrimination in the private sector does not exist in all parts of the State party's territory.

The State party should ensure that legislation exists throughout its territory to protect individuals against discrimination in the private field, pursuant to articles 2 and 3 of the Covenant.

...

(15) The Committee is concerned at the consequences of distinctions made in various pieces of legislation between citizens and non-citizens, the latter forming a considerable segment of the workforce. In particular, aliens without working papers run the risk of becoming victims of exploitation and abuse. Another vulnerable category of persons are foreign spouses of foreigners with residence permits, who are subject to deportation in the event of discontinuation of *de facto* cohabitation and, hence, may be forced to live in abusive relationships.

The State party should review its policies in relation to distinctions between citizens and aliens and between different categories of aliens, in particular in respect of those who do not have papers and spouses of foreigners with residence permits, in order to ensure that the rights of such persons under the Covenant are respected and ensured (arts. 2, 3, 9, 12, 17 and 23).

- Azerbaijan, ICCPR, A/57/40 vol. I (2002) 47 at paras. 77(5), 77(20) and 77(21).

(5) The Committee notes with satisfaction that under article 151 of the Constitution,

EQUALITY AND DISCRIMINATION - GENERAL

international legal obligations, including the rights stipulated in the Covenant, prevail over domestic legislation in the event of a conflict between them.

...

(20) With regard to the rights of aliens, the Committee considers that the provisions in the State party's legislation providing for the principle of reciprocity in guaranteeing Covenant rights to aliens are contrary to articles 2 and 26 of the Covenant. The Committee is equally concerned that according to article 61 of the Constitution, the right to immediate access to legal representation is guaranteed only to citizens.

The Committee recommends that the State party take appropriate measures to guarantee all rights of aliens in accordance with articles 2 and 26 of the Covenant.

(21) The Committee takes note of the fact that the law makes no provision for the status of conscientious objector to military service, which may legitimately be claimed under article 18 of the Covenant.

The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service without discrimination.

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at paras. 78(6), 78(16) and 78(18).

(6) The Committee expresses satisfaction at the creation of a Constitutional Court, but it remains concerned that current procedures impede access to the Court.

The State party should reform the procedures for access to the Constitutional Court in order to guarantee full protection of the human rights enshrined in the Covenant.

...

(16) Although the Committee welcomes the appointment of an Ombudsman, it notes with concern that her functions are not clearly defined and her power to implement recommendations is limited.

The State party should clearly define the functions of the Ombudsman, ensure her independence from the executive, provide for a direct reporting relationship with the legislature, and give her authority in relation to other State agencies in accordance with article 2 of the Covenant.

...

(18) The Committee expresses its concern at the discrimination suffered by conscientious objectors owing to the fact that non-military alternative service lasts for 36 months compared with 18 months for military service; it regrets the lack of clear information on the rules currently governing conscientious objection to military service.

EQUALITY AND DISCRIMINATION - GENERAL

The State party should ensure that persons liable for military service who are conscientious objectors can opt for civilian service the duration of which is not discriminatory in relation to military service, in accordance with articles 18 and 26 of the Covenant.

- Sweden, ICCPR, A/57/40 vol. I (2002) 57 at para. 79(6).

(6) The Committee, while commending the way in which the courts refer to the Covenant in interpreting rights, regrets that the Covenant as such may not be directly invoked before Swedish courts or before the administrative authorities. In this connection, it notes that in certain areas (arts. 25, 26 and 27) the Covenant gives greater protection than is accorded under the European Convention on Human Rights, which has been incorporated in Swedish domestic law.

The State party should ensure that its domestic legislation gives full effect to the rights embodied in the Covenant and that remedies are available for the exercise of those rights.

- Hungary, ICCPR, A/57/40 vol. I (2002) 60 at paras. 80(6) and 80(14).

(6) While the Covenant is incorporated into the domestic legal order and is directly applicable before the Hungarian courts, not all Covenant rights are ensured in practice. The Committee is also concerned that, notwithstanding article 26 of the Covenant, there is no comprehensive legislative provision against discrimination.

The State party is requested to take steps to enact comprehensive anti-discrimination legislation (article 26 of the Covenant).

...

(14) The Committee notes with concern discriminatory practices with respect to the registration of certain religious groups in Hungary and the limited protection accorded to the religious rights of asylum-seekers and prisoners. It further notes that the restitution of Church property has not been completed in a timely manner. Finally, it observes that educational programmes concerning religious tolerance and non-discrimination on the basis of religion or conviction are inadequate.

The State party should ensure that religious organizations are treated in a manner that is compatible with the Covenant; it should reinforce the protection of religious rights of asylum-seekers and prisoners; it should complete the process of restitution of Church property without discrimination; and it should undertake educational programmes designed to promote tolerance and the elimination of discrimination on the grounds of religion and conviction (articles 18 and 26 of the Covenant).

EQUALITY AND DISCRIMINATION - GENERAL

- New Zealand, ICCPR, A/57/40 vol. I (2002) 63 at paras. 81(5), 81(8) and 81(9).

(5) The Committee notes with satisfaction that in the determination of cases the New Zealand courts take account and are aware of the obligations undertaken by the State party under the Covenant and of the Committee's general comments.

...

(8) Article 2, paragraph 2, of the Covenant requires States parties to take such legislative or other measures which may be necessary to give effect to the rights recognized in the Covenant. In this regard the Committee regrets that certain rights guaranteed under the Covenant are not reflected in the Bill of Rights, and that it has no higher status than ordinary legislation. The Committee notes with concern that it is possible, under the terms of the Bill of Rights, to enact legislation that is incompatible with the provisions of the Covenant and regrets that this appears to have been done in a few cases, thereby depriving victims of any remedy under domestic law.

The State party should take appropriate measures to implement all the Covenant rights in domestic law and to ensure that every victim of a violation of Covenant rights has a remedy in accordance with article 2 of the Covenant.

(9) The Committee regrets that the State party does not consider it necessary to include in the prohibited grounds of discrimination all the grounds stated in the Covenant, in particular, language, although in New Zealand language has been interpreted as an aspect of race.

The State party should revise its domestic law in order to bring it into full conformity with the provisions of articles 2 and 26 of the Covenant.

- Viet Nam, ICCPR, A/57/40 vol. I (2002) 67 at paras. 82(5) and 82(17).

(5) The Committee is concerned about the status under domestic law of the rights provided for in the Covenant, which remains unclear. It is also concerned that certain constitutional provisions would appear to be incompatible with the Covenant and that the Vietnamese Constitution does not enumerate all Covenant rights, nor the extent to which they may be limited and the criteria used. The Committee is concerned that according to Vietnamese law the Covenant rights must be interpreted in a way that may compromise the enjoyment of these rights by all individuals.

The State party should guarantee the effective protection of all rights enshrined in the Covenant and ensure that they are fully respected and enjoyed by all (art. 2).

...

(17) The Committee takes note of the fact that the law makes no provision for the status of conscientious objector to military service, which may legitimately be claimed under article

EQUALITY AND DISCRIMINATION - GENERAL

18 of the Covenant.

The State party should ensure that persons liable for military service may claim the status of conscientious objector and perform alternative service without discrimination.

- Yemen, ICCPR, A/57/40 vol. I (2002) 72 at paras. 83(4) and 83(15).

(4) The Committee regrets the lack of clarity about the question of the juridical value of the Covenant in domestic law and the consequences thereof.

The State party should ensure that its legislation gives full effect to rights acknowledged in the Covenant and that remedies are available for the exercise of those rights.

...

(15) The Committee notes with concern that the offences punishable by the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in determining on the basis of financial compensation whether or not the penalty is carried out is also contrary to articles 6, 14 and 26 of the Covenant.

The State party should review the question of the death penalty. The Committee points out that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. Consequently, it calls upon the State party to bring its legislation and practice into line with the provisions of the Covenant...

- Republic of Moldova, ICCPR, A/57/40 vol. I (2002) 76 at paras. 84(5), 84(8) and 84(14).

(5) The Committee welcomes the adoption in 1994 of a Constitution that includes provisions designed to protect the rights of persons within the jurisdiction of the State party, including non-discrimination and equality before the law, and to reinforce the State party's legal order with respect to rights contained in the Covenant. The Committee also appreciates the competence of the Constitutional Court to strike down legislation incompatible with these rights, as occurred, for example, in the Court's determination that the *propiska* regime (the requirement to obtain a permit for internal movement) was unconstitutional. The Committee further welcomes the abolition of forced labour in 1998, as well as the provision for alternative civilian service of equal duration in place of military service.

...

(8) The Committee expresses its concern that, in response to members' questions, the State party indicated that no study had been undertaken to ensure that legislative and other measures in pursuance of Security Council resolution 1373 (2001) were in compliance with

EQUALITY AND DISCRIMINATION - GENERAL

its obligations under the Covenant.

The State party is under an obligation to ensure that counter-terrorism measures taken under Security Council resolution 1373 (2001) are in full conformity with the Covenant.

...

(14) The Committee is concerned that, contrary to articles 19 and 26 of the Covenant, the State television and radio broadcasting service (Tele-Radio Moldova) has been subject to directives inconsistent with the requirements of impartiality and non-discrimination with respect to political opinion.

The State party should take the necessary steps, including legislative measures, to ensure that the State broadcaster enjoys broad discretion as to programming content, and that competing views, including those of political parties opposed to government policy, are appropriately reflected in the broadcaster's transmissions.

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at paras. 77(4), 77(19) and 77(20).

(4) The Committee regrets the lack of clarity surrounding the question of the legal standing of the Covenant in relation to domestic law and the attendant consequences.

The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that effective remedies are available for the exercise of those rights.

...

(19) The Committee notes the criminalization of some behaviours such as those characterized as "debauchery" (articles 17 and 26 of the Covenant).

The State party should ensure that articles 17 and 26 of the Covenant are strictly upheld, and should refrain from penalizing private sexual relations between consenting adults.

(20) While noting the efforts the State party has made to ensure that people are educated about human rights and tolerance, the Committee observes that results in this area are still inadequate.

The State party is invited to strengthen human rights education and use education to forestall all displays of intolerance and discrimination based on religion or belief.

- Togo, ICCPR, A/58/40 vol. I (2002) 36 at paras. 78(6), 78(18) and 78(19).

(6) The Committee notes with concern that the process of bringing domestic laws, many of which predate the 1992 Constitution, into line with the provisions of the Constitution and

EQUALITY AND DISCRIMINATION - GENERAL

international human rights instruments is at a standstill. Proposals drawn up with the help of the Office of the High Commissioner for Human Rights during the 1990s have not been followed up. The Committee is also concerned at the fact that many proposed reforms dealing in particular with the rights of children and women, some of them announced several years ago, have still not been enacted.

The State party should revise its legislation so as to bring it into line with the provisions of the Covenant.

...

(18) The Committee is concerned at reports that peaceful demonstrations organized by civil society are regularly prohibited and forcibly dispersed by the authorities, while marches in support of the President of the Republic are regularly organized by the authorities.

The State party should ensure the practical enjoyment of the right of peaceful assembly and should restrict the exercise of that right only as a last resort, in accordance with article 21 of the Covenant.

(19) The Committee is disturbed by the distinction that the State party makes between associations and non-governmental organizations, and reports that non-governmental human rights organizations have been unable to obtain permission to register.

....The State party should ensure that this distinction does not violate, in law or in practice, the provisions of article 22 of the Covenant.

...

- Estonia, ICCPR, A/58/40 vol. I (2003) 41 at paras. 79(15) and 79(17).

(15) The Committee is concerned that the duration of alternative service for conscientious objectors may be up to twice as long as the duration of regular military service.

The State party is under an obligation to ensure that conscientious objectors can opt for alternative service, the duration of which is without punitive effect (articles 18 and 26 of the Covenant).

...

(17) Taking into account the considerable number of non-citizens residing in the State party, the Committee is concerned about legislation prohibiting non-citizens from being members of political parties.

The State party should give due consideration to the possibility for non-citizens to become members of political parties (article 22 of the Covenant).

EQUALITY AND DISCRIMINATION - GENERAL

- Luxembourg, ICCPR, A/58/40 vol. I (2003) 45 at para. 80(7).

(7) The Committee notes, on the one hand, that the State party grants financial assistance to the Christian and Jewish communities only and, on the other hand, that the criteria applied (such as membership of a religion recognized worldwide and officially in at least one European Union country) may give rise to problems as far as their compatibility with the provisions of articles 18, 26 and 27 of the Covenant is concerned.

The State party should guarantee non-discriminatory treatment of communities of religion and belief in respect of financial assistance and, to this end, ensure that all criteria in this regard are revised to guarantee that they are in keeping with the Covenant.

- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(8).

(8) The Committee notes with concern that the National Advisory Commission on Human Rights, established in 1996, has yet to meet.

The State party should take appropriate measures to allow the National Advisory Commission on Human Rights to function, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), as set forth in General Assembly resolution 48/134.

- Slovakia, ICCPR, A/58/40 vol. I (2003) 52 at paras. 82(7) and 82(8).

(7) While welcoming the creation of the institution of Ombudsman and the election of an Ombudsman, the Committee regrets that it has received insufficient information on the nature of the complaints submitted to and processed by the Ombudsman to enable it to assess the scope and effectiveness of the activities of this new institution.

The State party should ensure the effectiveness of the Ombudsman as an independent monitoring mechanism for the implementation of Covenant rights, particularly in the area of discrimination...

(8) The Committee observes that the proposed draft equal treatment law has not been adopted. While noting the information provided by the delegation that existing anti-discrimination laws enable possible instances of discrimination to be addressed, the Committee regrets that the delegation did not provide any statistics on the number of complaints submitted, the grounds for the complaints, as well as the outcomes.

The State party should continue with further measures to ensure the effectiveness of

EQUALITY AND DISCRIMINATION - GENERAL

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 Committee urges the State party to establish adequate monitoring and redress mechanisms which provide ready access to individuals, in particular from vulnerable groups.

- El Salvador, ICCPR, A/58/40 vol. I (2003) 61 at paras. 84(3), 84(5) and 84(6).

(3) The Committee applauds the efforts made by the State party to consolidate and strengthen the rule of law and democracy, and notes with satisfaction the legal and institutional changes in human rights that it has made in recent years as a result of the 1992 Peace Accords.

...

(5) The Committee applauds the establishment of a Human Rights Division in the National Civil Police (PNC) in June 2000 to provide support for the protection and promotion of human rights during the exercise of police duties. It also welcomes the delegation's statements about the approval in 2001, by Organization Act, of the Police Ethics Board, a watchdog body independent of the National Civil Police, although it regrets that the Board is still being set up.

(6) The Committee reiterates its concern at the General Amnesty (Consolidation of the Peace) Act of 1993 and the application of that Act to serious human rights violations, including those considered and established by the Truth Commission. While it notes the position of the State party, which considers that the Act is compatible with the country's Constitution, the Committee considers that the Act infringes the right to an effective remedy set forth in article 2 of the Covenant, since it prevents the investigation and punishment of all those responsible for human rights violations and the granting of compensation to the victims.

The Committee reiterates the recommendation made in its concluding observations adopted on 8 April 1994, that the State party should review the effect of the General Amnesty Act and amend it to make it fully compatible with the Covenant. The State party should respect and guarantee the application of the rights enshrined in the Covenant.

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at paras. 85(8) and 85(22).

(8) The Committee welcomes legislation adopted by the State party in respect of persons with disabilities, in particular the enactment of the Equal Rights for People with Disabilities Law (1998). It expresses the hope that those areas where the rights of disabled people, acknowledged by the delegation as not being respected and requiring further improvements,

EQUALITY AND DISCRIMINATION - GENERAL

will be addressed as soon as possible.

...

(22) The Committee is concerned about the criteria in the 1952 Law on Citizenship enabling the revocation of Israeli citizenship, especially its application to Arab Israelis. The Committee is concerned about the compatibility with the Covenant, in particular article 24 of the Covenant, of the revocation of the citizenship of Israeli citizens.

The State party should ensure that any changes to citizenship legislation are in conformity with article 24 of the Covenant.

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at para. 64(17).

(17) While the Committee welcomes the introduction of the possibility for conscientious objectors to substitute civilian service for military service, it remains concerned that the Alternative Civilian Service Act, which will take effect on 1 January 2004, appears to be punitive in nature by prescribing civil service of a length 1.7 times that of normal military service. Furthermore, the law does not appear to guarantee that the tasks to be performed by conscientious objectors are compatible with their convictions.

The State party should reduce the length of civilian service to that of military service and ensure that its terms are compatible with articles 18 and 26 of the Covenant.

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at paras. 65(5), 65(15) and 65(19).

(5) The Committee welcomes the establishment of the National Human Rights Office and particularly its use of the mandate to submit complaints to the Constitutional Court.

...

(15) The Committee notes with satisfaction that in 2002 a new law on alternative service entered into force, which provides for the right to conscientious objection. However, the Committee remains concerned that, pending a change in the conscription law, the duration of alternative service is up to twice that of military service and appears to be discriminatory (art. 18).

The State party should ensure that the alternative service is not of a discriminatory duration.

...

(19) The Committee is concerned about the impact of the state language policy on the full enjoyment of rights stipulated in the Covenant. Areas of concern include the possible negative impact of the requirement to communicate in Latvian except under limited conditions, on access of non-Latvian speakers to public institutions and communication with

EQUALITY AND DISCRIMINATION - GENERAL

public authorities (art. 26).

The State party should take all necessary measures to prevent negative effects of its language policy on the rights of individuals under the Covenant, and, if required, adopt measures such as the further development of translation services.

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at paras. 66(7) and 66(8).

(7) While taking note of the proposed constitutional reform and the legislative review project currently being undertaken by the National Human Rights Commission, the Committee remains concerned that Sri Lanka's legal system still does not contain provisions which cover all of the substantive rights set forth in the Covenant, or all the necessary safeguards required to prevent the restriction of Covenant rights beyond the limits permissible under the Covenant. It regrets in particular that the right to life is not expressly mentioned as a fundamental right in chapter III of the Constitution of Sri Lanka, even though the Supreme Court has, through judicial interpretation, derived protection of the right to life from other provisions of the Constitution. It is also concerned that contrary to the principles enshrined in the Covenant (e.g. the principle of non-discrimination), some Covenant rights are denied to non-citizens without any justification. It remains concerned about the provisions of article 16, paragraph 1, of the Constitution, which permits existing laws to remain valid and operative notwithstanding their incompatibility with the Constitution's provisions relating to fundamental rights. There is no mechanism to challenge legislation incompatible with the provisions of the Covenant (arts. 2 and 26). It considers that a limitation of one month to any challenges to the validity or legality of any "administrative or executive action" jeopardizes the enforcement of human rights, even though the Supreme Court has found that the one-month rule does not apply if sufficiently compelling circumstances exist.

The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant and that domestic law is harmonized with the obligations undertaken under the Covenant.

(8) The Committee is concerned that article 15 of the Constitution permits restrictions on the exercise of the fundamental rights set out in chapter III (other than those set out in articles 10, 11, 13.3 and 13.4) which go beyond what is permissible under the provisions of the Covenant, and in particular under article 4, paragraph 1, of the Covenant. It is further concerned that article 15 of the Constitution permits derogation from article 15 of the Covenant, which is non-derogable, by making it possible to impose restrictions on the freedom from retroactive punishment (article 13, paragraph 6, of the Constitution).

The State party should bring the provisions of chapter III of the Constitution into conformity

EQUALITY AND DISCRIMINATION - GENERAL

with articles 4 and 15 of the Covenant.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at paras. 67(17) and 67(19).

(17) The Committee notes with concern that the legislation of the State party does not allow conscientious objection to military service.

The State party should guarantee that conscientious objectors are able to opt for alternative service whose duration would not have punitive effects (articles 18 and 26 of the Covenant).

...

(19) Although the Committee has taken note of the information provided by the State party on the reduction in the number of internally displaced persons in 2002 and 2003, it remains concerned about the continued high number of displaced persons in Colombia and the lack of socio-economic assistance provided by the State party to these people, especially in fields such as the education of children and medical care...

The State party should intensify programmes aimed at providing economic and social assistance to internally displaced persons so that they may, in conformity with article 26 of the Covenant, enjoy as many of the benefits provided by State institutions as possible...

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at paras. 68(10)-68(12) and 68(20).

(10) The Committee regrets that Germany maintains its reservations, in particular regarding article 15, paragraph 1, of the Covenant, a non-derogable right, and those made when the Optional Protocol was ratified by the State party which partially limits the competence of the Committee with respect to article 26 of the Covenant.

The State party should consider withdrawing its reservations.

(11) The Committee notes with concern that Germany has not yet taken a position regarding the applicability of the Covenant to persons subject to its jurisdiction in situations where its troops or police forces operate abroad, in particular in the context of peace missions. It reiterates that the applicability of the regime of international humanitarian law does not preclude accountability of States parties under article 2, paragraph 1, of the Covenant for the actions of its agents outside their own territories.

The State party is encouraged to clarify its position and to provide training on relevant rights

EQUALITY AND DISCRIMINATION - GENERAL

contained in the Covenant specifically designed for members of its security forces deployed internationally.

(12) The Committee notes that owing to the State party's federal structure, in exercising its overall responsibility for compliance with the Covenant it may encounter acts and omissions of the authorities of the Länder in areas of their exclusive competence that are not consistent with the Covenant.

The State party is reminded of its responsibilities in relation to article 50 of the Covenant; it should establish proper mechanisms between the federal and Länder levels to further ensure the full applicability of the Covenant.

...

(20) While it takes note of the firm stance of Germany in favour of respect for human rights within the framework of the anti-terrorism measures it adopted subsequent to the events of 11 September 2001, the Committee expresses its concern regarding the effect of those measures on the situation of human rights in Germany, in particular for certain persons of foreign extraction, because of an atmosphere of latent suspicion towards them (arts. 17, 19, 22 and 26).

(a) The State party should ensure that anti-terrorism measures are in full conformity with the Covenant. The State party is requested to ensure that the concern over terrorism is not a source of abuse, in particular for persons of foreign extraction, including asylum-seekers.

(b) The State party is also requested to undertake an educational campaign through the media to protect persons of foreign extraction, in particular Arabs and Muslims, from stereotypes associating them with terrorism, extremism and fanaticism.

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(6) and 70(7).

(6) The Committee is concerned about the uncertain status of the Covenant in domestic law (art. 2).

The State party should clarify the status of the Covenant in domestic law.

(7) While acknowledging the important role of the Uganda Human Rights Commission in the promotion and protection of human rights in Uganda, the Committee is concerned about recent attempts to undermine the independence of the Commission. It is also concerned about the frequent lack of implementation by the State party of the Commission's decisions concerning both awards of compensation to victims of human rights violations and the prosecution of human rights offenders in the limited number of cases in which the Commission had recommended such prosecution (art. 2).

EQUALITY AND DISCRIMINATION - GENERAL

The State party should ensure that decisions of the Uganda Human Rights Commission are fully implemented, in particular concerning awards of compensation to victims of human rights violations and prosecution of human rights offenders. It should ensure the full independence of the Commission.

- Lithuania, ICCPR, A/59/40 vol. I (2004) 52 at paras. 71(16) and 71(17).

(16) The Committee reiterates the concern expressed in its concluding observations on the State party's previous report that the registration process continues to make distinctions between different religions, and that this amounts to unequal treatment contrary to articles 18 and 26. It notes that religious communities that do not meet the registration criteria are disadvantaged in that they may not register as legal persons and, therefore, as acknowledged by the delegation, may face certain difficulties, *inter alia* with respect to the restitution of property.

The State party should ensure that there is no discrimination in law or in practice in the treatment of different religions.

(17) The Committee reiterates the concern expressed in its concluding observations on the previous report about conditions of alternative service available to conscientious objectors to military service, in particular with respect to the eligibility criteria applied by the Special Commission and the duration of such service as compared with military service.

The Committee recommends that the State party clarify the grounds and eligibility for performing alternative service to persons objecting to military service on grounds of conscience or religious belief, to ensure that the right to freedom of conscience and religion is respected by permitting in practice alternative service outside the defence forces, and that the duration of service is not punitive in nature (arts. 18 and 26).

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at paras. 72(9) and 72(11).

(9) The Committee is concerned at the impact of the immediate application of the Act of 5 August 2003 on complaints lodged under the Act of 16 June 1993 relating to sanctions for serious violations of international humanitarian law (arts. 2, 5, 16 and 26).

The State party should guarantee victims' acquired right of access to an effective remedy without discrimination of any kind, insofar as the binding rules of general international law relating to diplomatic immunity do not apply.

...

(11) The Committee is concerned at the fact that the right to an effective remedy for

EQUALITY AND DISCRIMINATION - GENERAL

individuals illegally in Belgium is jeopardized by the fact that police officers are obliged to report their presence. It notes in addition that the lengths of stay authorized to enable illegal aliens who have lodged complaints to complete proceedings to assert their rights under the Covenant remain at the discretion of the Aliens Office (arts. 2 and 26).

Besides adjusting authorized lengths of stay, the State party should devise additional ways of guaranteeing such individuals the right to an effective remedy.

- Liechtenstein, ICCPR, A/59/40 vol. I (2004) 61 at para. 73(13).

(13) The Committee is concerned about the differential treatment of religious denominations in the allocation of public funds (arts. 2, 18 and 26).

The State party should review its policies in the allocation of public funds to religious denominations and ensure that all are assigned an equitable part of these funds.

- Namibia, ICCPR, A/59/40 vol. I (2004) 64 at paras. 74(5), 74(8) and 74(21).

(5) The Committee welcomes the fact that the Constitution stipulates that general rules of international law and international agreements binding on the State party are part of the domestic law and appreciates the information on the use made by the State party's courts in recent cases concerning provisions of the Covenant.

...

(8) The Committee acknowledges the information provided by the State party on the implementation of its Views adopted under the Optional Protocol with regard to cases No. 760/1997 (*Diergaardt et al. v. Namibia*) and No. 919/2000 (*Müller and Engelhard v. Namibia*). It nevertheless notes with concern the absence of a mechanism to implement the Committee's Views adopted under the Optional Protocol.

The State party should establish a mechanism to implement the Committee's Views adopted under the Optional Protocol.

...

(21) While the Committee notes the reason why the State party recognizes only one official language, it is concerned that those persons who do not speak the official language may be discriminated against in the administration of public affairs and in the administration of justice.

The State party should take measures to ensure, to the extent possible, that persons who only speak non-official languages used widely by the population are not denied access to public service. It should undertake measures to protect the use of such languages.

EQUALITY AND DISCRIMINATION - GENERAL

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at paras. 75(3) and 75(18).

(3) The State party explained its inability to report on the discharge of its own responsibilities with regard to the human rights situation in Kosovo, and suggested that, owing to the fact that civil authority is exercised in Kosovo by the United Nations Interim Administration Mission in Kosovo (UNMIK), the Committee may invite UNMIK to submit to it a supplementary report on the human rights situation in Kosovo. The Committee notes that, in accordance with Security Council resolution 1244 (1999), Kosovo currently remains a part of Serbia and Montenegro as successor State to the Federal Republic of Yugoslavia, albeit under interim international administration, and the protection and promotion of human rights is one of the main responsibilities of the international civil presence (paragraph 11 (j) of the resolution). It also notes the existence of provisional institutions of self-government in Kosovo that are bound by the Covenant by virtue of article 3.2 (c) of UNMIK Regulation No. 2001/9 on a Constitutional Framework for Provisional Self-Government in Kosovo. The Committee considers that the Covenant continues to remain applicable in Kosovo. It welcomes the offer made by the State party to facilitate the consideration of the situation of human rights in Kosovo and encourages UNMIK, in cooperation with the Provisional Institutions of Self-Government (PISG), to provide, without prejudice to the legal status of Kosovo, a report on the situation of human rights in Kosovo since June 1999.

...

(18) The Committee is concerned about the lack of full protection of the rights of internally displaced persons in Serbia and Montenegro, particularly with regard to access to social services in their places of actual residence, including education facilities for their children, and access to personal documents. It expresses its concern with regard to high levels of unemployment and lack of adequate housing, as well as with regard to the full enjoyment of political rights. While noting the State party's view that internally displaced persons have equal status with other citizens of Serbia and Montenegro, the Committee is concerned at the lack of enjoyment of their rights in practice. The Committee notes that Roma from Kosovo displaced during the 1999 conflict are a particularly vulnerable group (arts. 12, 26).

The State party should take effective measures to ensure that all policies, strategies, programmes and funding support have as their principal objective the enjoyment by all displaced persons of the full spectrum of Covenant rights. Furthermore, internally displaced persons should be afforded full and effective access to social services, educational facilities, unemployment assistance, adequate housing and personal documents, in accordance with the principle of non-discrimination.

- Finland, ICCPR, A/60/40 vol. I (2004) 22 at paras. 81(3), 81(8), 81(14) and 81(16).

(3) The Committee notes with satisfaction the adoption of:

EQUALITY AND DISCRIMINATION - GENERAL

(a) A new law against discrimination which entered into force in February 2004, banning all direct or indirect discrimination based on age, ethnic or national origin, nationality, language, religion, beliefs, opinions, health, disability and sexual orientation and placing the burden of proof before the courts on the defendant;

...

(8) The Committee regrets that the State party has only partly followed up on its observations regarding communication No. 779/1997 (*Anni Aärelä and Jouni Näkkäljärvi v. Finland*).

The State party is urged to give full effect to the Committee's observations. It should consider introducing appropriate procedures to give effect to the observations adopted by the Committee under the Optional Protocol.

...

(14) The Committee regrets that the right to conscientious objection is acknowledged only in peacetime, and that the civilian alternative to military service is punitively long. It reiterates its concern at the fact that the preferential treatment accorded to Jehovah's Witnesses has not been extended to other groups of conscientious objectors.

The State party should fully acknowledge the right to conscientious objection and, accordingly, guarantee it both in wartime and in peacetime; it should also end the discrimination inherent in the duration of alternative civilian service and the categories that can benefit from it (arts. 18 and 26 of the Covenant).

...

(16) The Committee is concerned that negative attitudes and *de facto* discrimination against immigrants are still to be found in certain strata of the Finnish population.

The State party should step up its efforts to promote tolerance and combat prejudice, particularly through public awareness campaigns.

- Albania, ICCPR, A/60/40 vol. I (2004) 25 at paras. 82(3) and 82(4).

(3) The Committee welcomes the progress accomplished in legislative and institutional reform after the regime change in the early 1990s, notably the restoration of the freedom of conscience and belief, as well as the adoption of a democratic Constitution in 1998 which enhances protection of human rights. It welcomes in particular the ratification by Albania of most of the main United Nations human rights instruments.

(4) The Committee welcomes the fact that the provisions of the Covenant are directly applicable in the domestic legal order and that they have been invoked in the domestic courts.

EQUALITY AND DISCRIMINATION - GENERAL

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at para. 84(22).

(22) The Committee notes that, according to the information supplied by the State party, compulsory military service is a fallback applicable only when not enough professional soldiers can be recruited, while at the same time the State party does not recognize the right to conscientious objection.

The State party should fully recognize the right to conscientious objection in times of compulsory military service and should establish an alternative form of service, the terms of which should be non-discriminatory (Covenant, arts. 18 and 26).

- Poland, ICCPR, A/60/40 vol. I (2004) 40 at paras. 85(15) and 85(19).

(15) The Committee notes that the duration of alternative military service is 18 months, whereas for military service it is only 12 months (arts. 18 and 26).

The State party should ensure that the length of alternative service to military service does not have a punitive character.

...

(19) The Committee notes with concern that incidents of desecration of Catholic and Jewish cemeteries, and acts of anti-Semitism, have not always been properly investigated and the perpetrators punished (arts. 18, 20 and 27).

The State party should intensify efforts to combat and punish all such incidents. Law enforcement bodies and the judiciary should be properly trained and instructed on how to address such complaints.

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at paras. 86(3), 86(5), 86(8), 86(9) and 86(15).

(3) The Committee welcomes the fact that the State party's new draft constitution includes a proposed Bill of Rights that is inspired by international human rights standards and seeks to remedy present deficiencies in the protection of fundamental rights, including gender disparities. It hopes that a Bill of Rights in full conformity with the Covenant will be adopted soon.

...

(5) The Committee appreciates the State party's circumspection in legislating on the pending Suppression of Terrorism Bill, a draft of which was made available for comments to civil society stakeholders, and its intention to balance security concerns with human rights concerns in the adoption of this bill. In this context, the State party is invited to take into account pertinent considerations set out in the Committee's general comment No. 29 on

EQUALITY AND DISCRIMINATION - GENERAL

derogations during states of emergency and general comment No. 31 on the nature of the general legal obligation imposed on States parties to the Covenant.

...

(8) The Committee notes that the Covenant has not been incorporated into domestic law and that the provisions of international human rights instruments, in particular the Covenant, are not in practice invoked in courts of law. It stresses that implementation of Covenant guarantees and the possibility of invoking the Covenant before domestic courts do not depend on the State party being a party to the first Optional Protocol to the Covenant.

The Committee invites the State party to take appropriate measures to allow Covenant rights to be invoked in the domestic courts.

(9) The Committee notes with concern that because of, *inter alia*, widespread corruption, the access of citizens to domestic courts and to judicial remedies is limited in practice. The frequent failure to enforce court orders and judgements is an additional cause of concern (article 2 of the Covenant).

The State party should ensure that all individuals subject to its jurisdiction have equal access to judicial and other remedies.

...

(15) While it notes with appreciation the recent awareness campaigns and the activities of the National AIDS Control Council, the Committee remains concerned about the extremely high rate of deaths resulting from AIDS, and the unequal access to appropriate treatment for those infected with HIV (article 6 of the Covenant).

The State party should take measures to ensure that all those infected with HIV have equal access to treatment.

- Iceland, ICCPR, A/60/40 vol. I (2005) 50 at para. 87(9).

(9) The Committee regrets that, despite the recommendation it made in 1998 and the incorporation into domestic law of articles 3, 24 and 26, the Covenant itself has not been incorporated into Icelandic law, whereas the European Convention on Human Rights (ECHR) has. The Committee notes in this regard that several Covenant provisions, including articles 4, 12, 22, 25 and 27, go beyond the scope of the provisions of the ECHR.

The Committee encourages the State party to ensure that all rights protected under the Covenant are given effect in Icelandic law.

- Mauritius, ICCPR, A/60/40 vol. I (2005) 52 at paras. 88(6) and 88(7).

EQUALITY AND DISCRIMINATION - GENERAL

(6) The Committee reiterates its concern over the failure to integrate all the rights guaranteed under the Covenant into national legislation, more particularly the maintenance of legislative and constitutional provisions at variance with the Covenant. It stresses once again that the Mauritian legal system does not provide effective remedies in all cases of violations of the rights guaranteed by the Covenant (Covenant, art. 2). The Committee notes yet again that the maintenance of article 16 of the Constitution, by virtue of which the prohibition of discrimination does not apply to personal-status laws and to foreigners, might well result in the violation of articles 3 and 26 of the Covenant.

The State party should give full effect to the provisions of the Covenant in its domestic legislation prohibiting all forms of discrimination.

(7) While the Committee welcomes the establishment in April 2001 of the National Human Rights Commission, it notes the Commission's shortcomings in terms of guarantees of independence in appointing and dismissing its members. Furthermore, the Commission does not have its own budget and its investigative powers are restricted. Moreover, it often requests the police to investigate the complaints submitted to it (Covenant, art. 2).

The State party should ensure that the Human Rights Protection Act 1998 establishing this Commission and its practice are in line with the Paris Principles.

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at paras. 91(5) and 91(18).

(5) The Committee notes with concern that the recommendations it has addressed to Yemen in 2002 have not been fully taken into consideration, and that the State party justifies the absence of progress on several important issues by the impossibility, in its view, of respecting at the same time religious principles and certain obligations under the Covenant. The Committee disagrees with such an interpretation and stresses the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms. In its view, cultural and religious specificities may be taken into consideration in order to develop adequate means to ensure respect for universal human rights, but they cannot jeopardize the very recognition of these rights for all (article 2 of the Covenant).

The State party should examine in good faith all recommendations addressed to it by the Committee, and find ways to ensure that its desire to abide by religious principles is implemented in a manner that is fully compatible with its obligations under the Covenant, which it has accepted without reservations.

...

(18) The Committee reiterates its concern about the prohibition of Muslims converting to

EQUALITY AND DISCRIMINATION - GENERAL

another religion, in the name of social stability and security. Such a prohibition is in violation of article 18 of the Covenant, which does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice, and of article 26, which prohibits discrimination on the ground of religion.

The State party should review its position and take all necessary measures to ensure the freedom of all persons to choose a religion or belief, including the right to change one's current religion or belief.

- Syrian Arab Republic, ICCPR, A/60/40 vol. I (2005) 78 at paras. 94(5) and 94(11).

(5) While welcoming the establishment of the National Committee for International Humanitarian Law, the Committee notes that it is not fully independent. Noting the delegation's statement about current plans to establish an independent national human rights institution, the Committee wishes to stress the complementary role of such an institution with respect to governmental institutions and non-governmental organizations dealing with human rights (article 2 of the Covenant).

The State party is encouraged to establish a national human rights institution that complies with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

...

(11) The Committee takes note of the information provided by the delegation whereby Syria does not recognize the right to conscientious objection to military service, but that it permits some of those who do not wish to perform such service to pay a certain sum in order not to do so (art. 18).

The State party should respect the right to conscientious objection to military service and establish, if it so wishes, an alternative civil service of a non-punitive nature.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(8), 95(9), 95(22) and 95(23).

(8) The Committee notes that the Covenant has not been fully incorporated into domestic law and that its provisions are not in practice invoked in courts of law unless they have been specifically incorporated by legislation (art. 2).

The State party should guarantee the effective protection of all rights enshrined in the Covenant and ensure that they are fully respected and enjoyed by all.

EQUALITY AND DISCRIMINATION - GENERAL

(9) While welcoming the important work of the National Human Rights Commission in the promotion and protection of human rights, the Committee is concerned that many of its recommendations to the relevant authorities have not been implemented. The Committee is also concerned about the lack of sufficient resources allocated to the Commission (art. 2).

The State party should ensure that recommendations of the National Human Rights Commission are given full and serious follow-up. It should also ensure that the Commission is endowed with sufficient resources to enable it effectively to discharge all of its mandated activities in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134).

...

(22) Notwithstanding the corrective measures taken by the State party, most notably through the Central Registration Regulations 1992 and 1996, to address the issue of statelessness among ethnic minorities, including the Highlanders, the Committee remains concerned that a significant number of persons under its jurisdiction remain stateless, with negative consequences for the full enjoyment of their Covenant rights, as well as the right to work and their access to basic services, including health care and education. The Committee is concerned that their statelessness renders them vulnerable to abuse and exploitation. The Committee is also concerned about the low levels of birth registration, especially among Highlander children. (arts. 2 and 24).

The State party should continue to implement measures to naturalize the stateless persons who were born in Thailand and are living under its jurisdiction. The State party should also review its policy regarding birth registration of children belonging to ethnic minority groups, including the Highlanders, and asylum-seeking/refugee children, and ensure that all children born in the State party are issued with birth certificates.

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

The State party must take measures to effectively implement the existing legislation providing for the rights of migrant workers. Migrant workers should be afforded full and effective access to social services, educational facilities and personal documents, in

EQUALITY AND DISCRIMINATION - GENERAL

accordance with the principle of non-discrimination. The State party should consider establishing a governmental mechanism to which migrant workers can report violations of their rights by their employers, including illegal withholding of their personal documents. The Committee also recommends that humanitarian assistance be effectively provided to all victims of the tsunami disaster without discrimination, regardless of their legal status.

ICESCR

- Sweden, ICESCR, E/2002/22 (2001) 106 at paras. 711, 715, 722 and 732-734.

711. The Committee warmly welcomes the creation of an interdepartmental working group to draw up a proposal for a national plan of action for human rights, as foreseen in paragraph 71 of the Vienna Declaration and Programme of Action^{10/}. The Committee also takes note that the national plan of action is being drawn up with the broad participation of civil society and that economic, social and cultural rights are being addressed.

...

715. The Committee recognizes that a number of Ombudspersons exist in the country, dealing with different aspects of human rights with a focus on discrimination issues. The Committee welcomes the creation of the office of an Ombudsperson against Discrimination due to Sexual Orientation.

...

722. The Committee regrets that the Covenant is not given full effect in the State party's legal order and therefore cannot be directly invoked before the courts.

...

732. The Committee urges the State party to ensure that the promotion of economic, social and cultural rights is made a major component in the pending national plan of action for human rights.

733. While recognizing that a number of Ombudspersons exist in the State party, the Committee recommends that the State party consider, in the framework of the national plan of action for human rights, the creation of a national human rights institution to deal with the protection and promotion of all human rights, including economic, social and cultural rights.

734. The Committee urges the State party to take appropriate steps to give full effect to the Covenant in its legal system, so that the rights covered by it may be directly invoked before the courts.

Notes

...

^{10/} Adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993 (A/CONF.157/24 (Part I), chap. III).

EQUALITY AND DISCRIMINATION - GENERAL

See also:

- Algeria, ICESCR, E/2002/22 (2001) 116 at para. 814.
- Colombia, ICESCR, E/2002/22 (2001) 110 at paras. 757 and 778.

757. The Committee notes with deep concern the extreme inequalities and the social injustice prevailing in Colombia, as well as drug trafficking, which, *inter alia*, have led to serious and widespread increase in violence in the country. This violence has seriously affected the implementation of the rights protected under the Covenant.

...

778. The Committee strongly recommends that the State party's obligations under the Covenant should be taken into account in all aspects of its negotiations with the international financial institutions to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.

- Algeria, ICESCR, E/2002/22 (2001) 116 at paras. 814, 815, 830 and 842.

814. The Committee notes with concern that no case-law on the application of the Covenant exists and that the Covenant has not been invoked before national courts.

815. The Committee is of the view that the various measures taken by the State party with regard to the Vienna Declaration and Programme of Action^{10/} fall short of the comprehensive national human rights plan of action called for by that document.

...

830. In the light of paragraph 71 of the Vienna Declaration and Programme of Action, the Committee recommends that the State party prepare, through an open and consultative process, a comprehensive national human rights plan of action regarding the implementation of its international human rights obligations, including the Covenant. The State party is encouraged to seek technical assistance from the Office of the United Nations High Commissioner for Human Rights in this regard...

...

842. The Committee urges the State party to ensure that its laws, regulations and practices in relation to HIV/AIDS are non-discriminatory and are in conformity with the *International Guidelines* on HIV/AIDS and human rights^{21/}.

Notes

...

^{10/} Adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June

EQUALITY AND DISCRIMINATION - GENERAL

1993 (A/CONF.157/24 (Part I), chap. III).

...

21/ *HIV/AIDS and Human Rights: International Guidelines. Second International Consultation on HIV/AIDS and Human Rights, Geneva, 23-25 September 1996* (United Nations publication, Sales No. E.98.XIV.1).

- France, ICESCR, E/2002/22 (2001) 121 at paras. 853, 862 and 872.

853. The Committee welcomes the State party's recent efforts to address the problem of social exclusion in the State party, *inter alia*, by the adoption of Framework Law No. 98-657 of 29 July 1998 to combat social exclusion, particularly targeting the right to work, the right to housing and the right to health.

...

862. The Committee expresses its concern that, despite the constitutional provision (art. 55) stipulating the primacy of international law over national law and the monistic principle adopted by the State party incorporating international law in the domestic legal order, the Covenant and its provisions are not considered directly applicable by some courts of law (e.g. the *Conseil d'Etat*), resulting in a dearth of court decisions in which reference is made to the Covenant and its provisions. The Committee is also concerned about the delegation's statement that some economic, social and cultural rights are not justiciable.

...

872. The Committee recommends that the State party provide proper training to the judiciary, prosecutors and other officials responsible for the implementation of the Covenant and its rights, to ensure that these rights are consistently enforced in courts of law.

- Croatia, ICESCR, E/2002/22 (2001) 125 at paras. 887, 903 and 914.

887. The Committee welcomes the succession of the State party to the six major international human rights treaties, including the Covenant, and the fundamental human rights conventions of ILO. The Committee notes with satisfaction that, in accordance with article 140 of the State party's revised Constitution (2001), international agreements to which the State is a party enjoy supremacy over domestic laws and can be directly applied in domestic courts. It welcomes the fact that the Covenant has in some instances been invoked in court proceedings. The Committee also welcomes the efforts being made to provide training to judges in the applicable international human rights standards. In addition, it welcomes the explicit enumeration of a number of economic, social and cultural rights in the revised Constitution.

...

903. The Committee urges the State party to undertake a comprehensive review of the

EQUALITY AND DISCRIMINATION - GENERAL

phenomenon of all forms of discrimination within the meaning of article 2 of the Covenant and the relevant provisions of other international human rights treaties to which the State is a party, particularly the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights. The Committee recommends that the necessary measures, including legislative reforms, be taken to ensure that the rights of all minority groups are enjoyed throughout the territory, without discrimination, in accordance with article 2 of the International Covenant on Economic, Social and Cultural Rights.

...

914. The Committee urges the State party to structure its data collection efforts in the future in such a way as to be able to identify clearly the most disadvantaged and marginalized groups of society. It calls on the State party to conduct studies of all its laws, policies and practices with a view to assessing their effects on those groups, especially with regard to those areas that most directly affect their basic living conditions, such as employment, housing restitution, relocation, tenancy rights, health care, naturalization and education. All data should be disaggregated by minority groups, as well as by gender, religion, disability and any other relevant criteria that will help the State party develop targeted programmes to help those most in need.

- Jamaica, ICESCR, E/2002/22 (2001) 130 at paras. 933 and 946.

933. The Committee is concerned that the social security scheme of the State party does not provide for universal coverage and that it excludes a considerable portion of the disadvantaged and marginalized groups in society, including older persons, single parents and persons with disabilities. The Committee expresses particular concern about the declining expenditure on social security and that the system does not sufficiently address the needs of a rapidly ageing population.

...

946. The Committee recommends that the State party strive for universal coverage of the social security system in Jamaica, giving priority to the disadvantaged and marginalized groups in society. In particular, the Committee strongly recommends the formulation and implementation of strategies to ensure adequate coverage for the population group eligible for retirement benefits. The Committee encourages the State party to explore the possibilities of international cooperation in this regard as provided for under article 2, paragraph 1, of the Covenant.

- Ireland, ICESCR, E/2003/22 (2002) 29 at paras. 126, 128, 130, 133, 136, 137, 139, 141, 145 and 149.

126. The Committee notes with regret that, despite its previous recommendation in 1999,^{12/}

EQUALITY AND DISCRIMINATION - GENERAL

no steps have been taken to incorporate or reflect the Covenant in domestic legislation, and that the State party could not provide information on case law in which the Covenant and its rights were invoked before the courts.

...

128. The Committee regrets that the Disability Bill does not adopt a human rights-based approach, as recommended in its previous concluding observations. Moreover, the Committee regrets that section 47 of the Disability Bill contains a clause purporting to remove the rights of people with disabilities to seek judicial redress if any of the Bill's provisions are not carried out.

...

130. The Committee regrets that the State party has not yet undertaken any measures with regard to the Committee's 1999 observation concerning the inconsistency of article 40.1 of the Constitution on equality before the law with the principle of non-discrimination as set out in articles 2 and 3 of the Covenant.

...

133. The Committee is concerned that the State party, despite the Committee's recommendation in 14/ has still not adopted a human rights-based approach to the revised National Anti-Poverty Strategy.

...

136. The Committee notes with regret that a human rights framework encompassing, *inter alia*, the principles of non-discrimination and equal access to health facilities and services, as outlined in paragraph 54 of the Committee's general comment no. 14 (2000) on the right to the highest attainable standard of health (art. 12 of the Covenant), was not embodied in the recently published Health Strategy. The Committee also regrets the State party's failure to introduce a common waiting list for treatment in publicly funded hospital services for publicly and privately insured patients.

137. Affirming that all economic, social and cultural rights are justiciable, the Committee reiterates the recommendation made in 199915/ and strongly recommends that the State party incorporate economic, social and cultural rights in the proposed amendment to the Constitution, as well as in other domestic legislation. The Committee points out that, irrespective of the system through which international law is incorporated into the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee would like to draw the attention of the State party to its general comment no. 9 (1998) on the domestic application of the Covenant.

...

139. The Committee strongly recommends that the State party adopt a human rights-based approach in the Disability Bill. In particular, the Committee recommends that the clause in section 47 of the Disability Bill, which purports to deny people with disabilities the right to judicial redress, be removed.

...

EQUALITY AND DISCRIMINATION - GENERAL

141. The Committee...recommends that the All-Party *Oireachtas* Committee urgently consider amending article 40.1 of the Constitution on equality before the law, in the light of the principle of non-discrimination as set out in article 2, paragraph 2, and article 3 of the Covenant.

...

145. The Committee urges the State party: (a) to ensure that the Combat Poverty Agency is well-resourced and able to fulfill, in an effective manner, its statutory advisory functions; (b) to give proper attention to the research and recommendations of the Agency; and (c) to integrate human rights into the revised National Anti-Poverty Strategy, in accordance with the Committee's Statement on poverty and the International Covenant on Economic, Social and Cultural Rights.^{16/} In this regard, the Committee reaffirms the State party's obligation to make the Covenant rights enforceable in domestic legislation and confirms that, whether or not the State party takes this step, it still has a legal obligation to integrate economic, social and cultural rights into the National Strategy.

...

149. The Committee recommends that the State party review the recently published National Health Strategy with a view to embracing a human rights framework in that strategy, in line with the principles of non-discrimination and equal access to health facilities and services, as outlined in paragraphs 53 and 54 of the Committee's general comment no. 14 (2000). The Committee furthermore urges the State party to introduce a common waiting list for treatment in publicly funded hospitals for privately and publicly insured patients.

Notes

...

^{12/} *Official Records of the Economic and Social Council, 2000, Supplement No. 2* (E/2000/22-E/C.12/1999/11 and Corr.1), chap. V, paras. 123-152.

...

^{14/} [*Official Records of the Economic and Social Council, 2000, Supplement No. 2* (E/2000/22-E/C.12/1999/11 and Corr.1), chap. V,] para. 134.

^{15/} [*Official Records of the Economic and Social Council, 2000, Supplement No. 2* (E/2000/22-E/C.12/1999/11 and Corr.1), chap. V], para. 144.

^{16/} [*Official Records of the Economic and Social Council,*] 2002, *Supplement No. 2* (E/2002/22-E/C.12/2001/17), annex VII.

-
- Benin, ICESCR, E/2003/22 (2002) 34 at paras. 163 and 182.

163. The Committee is concerned at the fact that, although the 1990 Constitution guarantees certain economic, social and cultural rights, no specific law, apart from the Labour Code of

EQUALITY AND DISCRIMINATION - GENERAL

1998, has been adopted to give effect to the rights guaranteed by the Covenant.

...

182. The Committee strongly urges the State party to ensure that the Covenant is fully taken into consideration in the formulation and implementation of all measures relating to economic, social and cultural rights and that, in practical terms, legal proceedings may be brought on the basis of its provisions.

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/2003/22 (2002) 39 at paras. 214, 227, 228, 231, 232 and 234.

214. The Committee deeply regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has still not been incorporated in the domestic legal order and that there is no intention by the State party to do so in the near future. The Committee reiterates its concern about the State party's position that the provisions of the Covenant, with minor exceptions, constitute principles and programmatic objectives rather than legal obligations that are justiciable, and that consequently they cannot be given direct legislative effect.^{19/}

...

227. Affirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee reiterates its previous recommendation made in 1997^{22/} and strongly recommends that the State party re-examine the matter of incorporation of the Covenant in domestic law. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee draws the attention of the State party to its general comment no. 9 (1998) on the domestic application of the Covenant.

228. The Committee...recommends, recalling its recommendation made in 1997,^{23/} that the State party review and strengthen its institutional arrangements, within the government administration, which are designed to ensure that its obligations under the Covenant are taken into account, at an early stage, in the Government's formulation of national legislation and policy on issues such as poverty reduction, social welfare, housing, health and education. Given that its general comments are based upon experience gained over many years, including the examination of numerous States parties' reports, the Committee urges the State party to give careful consideration to its general comments and statements when formulating policies that bear upon economic, social and cultural rights.

...

231. The Committee strongly recommends that the State party establish a national human

EQUALITY AND DISCRIMINATION - GENERAL

rights commission for England, Wales and Scotland, with a mandate to promote and protect all human rights, including economic, social and cultural rights.

232. The Committee strongly recommends the inclusion of effective protection for economic, social and cultural rights, consistent with the provisions of the Covenant, in any bill of rights enacted for Northern Ireland.

...

234. The Committee urges the State party to take more effective steps to combat *de facto* discrimination, in particular against ethnic minorities and people with disabilities, especially in relation to employment, housing and education. The Committee strongly recommends that the State party enact comprehensive legislation on equality and non-discrimination in United Kingdom law, in conformity with articles 2.2 and 3 of the Covenant.

Notes

...

19/ [*Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22-E/C.12/1997/10) chap. V*], paras. 284-317.

...

21/ [*Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22-E/C.12/1997/10) chap. V*], para. 301.

...

23/ [*See Official Records of the Economic and Social Council, 1998, Supplement No. 2 (E/1998/22-E/C.12/1997/10) chap. V*], para. 316.

-
- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at paras. 257, 259, 262, 280, 282 and 285.

257 The Committee is deeply concerned that the State party has not incorporated or reflected the Covenant or its provisions in the domestic legal order and that the State party could not provide information on case law in which the rights contained in the Covenant were invoked before the courts.

...

259. The Committee is concerned that economic, social and cultural rights are not part of the mandate of the Ombudsman.

...

262. The Committee is concerned about the lack of specific and comprehensive anti-discrimination legislation in the State party. The Committee is particularly concerned that the Equal Opportunity Act 2000 does not afford protection to individuals on the grounds of sexual orientation, age and HIV/AIDS status, among others.

...

EQUALITY AND DISCRIMINATION - GENERAL

280. The Committee urges the State party to ensure that economic, social and cultural rights are incorporated in national domestic legislation and made justiciable. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in the domestic legal order. In this respect, the Committee draws the attention of the State party to its general comment no. 9 (1998) on the domestic application of the International Covenant on Economic, Social and Cultural Rights.

...

282. The Committee recommends that the State party provide the Ombudsman with powers to deal with all human rights issues, including economic, social and cultural rights.

...

285. The Committee recommends that the State party take legislative and other effective measures to eliminate discrimination, in accordance with article 2, paragraph 2 of the Covenant. In particular, the Committee wishes to encourage the State to undertake proactive policies to promote the rights of individuals, especially with regard to their sexual orientation and HIV/AIDS status.

- Slovakia, ICESCR, E/2003/22 (2002) 50 at para. 309.

309. The Committee welcomes the amendment to article 7, paragraph 5, of the Constitution of the Slovak Republic, pursuant to which the Covenant takes precedence over the domestic law and may be invoked before the courts.

- Poland, ICESCR, E/2003/22 (2002) 54 at paras. 346, 374 and 390.

346. The Committee welcomes the establishment in November 2001 of the Government Plenipotentiary for Equal Gender Status with the responsibility of promoting the principle of equality between men and women in government legislation and policies. The Committee also notes the recent expansion of the responsibilities of the Plenipotentiary to include combating discrimination based on race, ethnic origin, religion and belief, age and sexual orientation.

...

374. ...[T]he Committee draws the attention of the State party to its general comment no. 9 (1998) on domestic application of the Covenant. The Committee urges the State party to take measures to increase public awareness of the Covenant and of the possibility of invoking its provisions before the courts.

...

390. The Committee recommends that the State party closely monitor the level of poverty...The Committee furthermore urges the State party to fully integrate human rights,

EQUALITY AND DISCRIMINATION - GENERAL

including economic, social and cultural rights, in the formulation of a national strategy for poverty reduction. In this respect, the Committee refers the State party to the Committee's Statement on poverty and the International Covenant on Economic, Social and Cultural Rights.^{16/}

Notes

...

^{16/} [Official Records of the Economic and Social Council,] 2002, Supplement No. 2 (E/2002/22-E/C.12/2001/17), annex VII.

See also:

- Slovakia, ICESCR, E/2003/22 (2002) 50 at para. 333.
- Estonia, ICESCR, E/2003/22 (2002) 68 at para. 505.

- Georgia, ICESCR, E/2003/22 (2002) 59 at paras. 408, 427 and 446.

408. The Committee is concerned about the existing gap between legislation in the field of economic, social and cultural rights and its actual implementation.

...

427. The Committee recommends that the enforcement of legislation in the field of economic, social and cultural rights be improved and that the various plans and programmes on human rights be implemented in a consistent manner.

...

446. The Committee recommends that, in its efforts to implement the rights contained in the Covenant, the State party continue to seek international assistance and engage in international cooperation with donors and relevant international organizations, including the Office of the High Commissioner for Human Rights. In this regard, the Committee recommends that the State party ensure that its international human rights obligations are taken fully into account when entering into technical cooperation and other arrangements.

- Solomon Islands, ICESCR, E/2003/22 (2002) 65 at paras. 451, 456, 466 and 469.

451. The Committee welcomes the conclusion of a technical cooperation agreement between the Office of the United Nations High Commissioner for Human Rights and the Government of the Solomon Islands in 2001. The Committee encourages the expansion in this agreement of activities which specifically focus on economic, social and cultural rights.

...

456. The Committee is concerned that the State party has not ratified most of the main ILO conventions relating to economic, social and cultural rights.

EQUALITY AND DISCRIMINATION - GENERAL

....

466. The Committee urges the State party to take all effective measures to prohibit discrimination on the basis of nationality or sex in all fields of economic, social and cultural life...

...

469. The Committee recommends that the State party consider ratifying the main ILO Conventions relating to economic, social and cultural rights, such as Convention No. 87 (1948) concerning freedom of association and protection of the right to organize, No. 98 (1949) concerning the right to organize and collective bargaining and No. 182 (1999) concerning the prohibition and immediate action for the worst forms of child labour.

- Estonia, ICESCR, E/2003/22 (2002) 68 at paras. 486 and 488.

486. The Committee commends the State party for the significant steps it has taken to bring its legislation in harmony with international human rights norms and, in particular, with the provisions of the Covenant. The Committee notes with satisfaction the State party's assurances that the provisions of the Covenant have been fully incorporated into the domestic legal system and may be invoked before the courts.

...

488. The Committee welcomes the establishment in November 2001 of the Office of the Legal Chancellor, who fulfils the functions of an Ombudsman and whose mandate includes economic, social and cultural rights, and the efforts to make this institution easily accessible through the creation of a number of regional offices.

- Luxembourg, ICESCR, E/2004/22 (2003) 24 at paras. 76 and 87.

76. While taking note of the information provided by the State party that international treaties take precedence over national laws, the Committee regrets that the Covenant's rights have not been invoked before the courts.

...

87. The Committee recommends that effective measures be taken by the State party to ensure that legal and judicial training takes full account of the justiciability of Covenant rights and promotes the use of the Covenant as a source of law in domestic courts. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

- Brazil, ICESCR, E/2004/22 (2003) 28 at paras. 111, 124, 125, 128, 138, 147, 148, 150 and 153.

EQUALITY AND DISCRIMINATION - GENERAL

111. The Committee notes with appreciation that the Federal Constitution adopted in 1988 incorporates a wide range of human rights, including a number of the economic, social and cultural rights enshrined in the Covenant. The Committee also takes note that under article 5 of the Constitution, the rights and guarantees in international treaties to which Brazil is party are considered part of the national law.

...

124. The Committee notes with concern the persistent and extreme inequalities among the various geographic regions, states and municipalities, and the social injustice prevalent in the State party. The Committee is also concerned about imbalances in the distribution of resources and income and access to basic services in the State party.

125. The Committee is concerned that, despite the existence of constitutional and legislative provisions and administrative procedures to implement the Covenant rights, there are no effective measures and remedies, judicial or otherwise, to uphold these rights, especially with regard to the disadvantaged and marginalized groups.

...

128. The Committee notes with concern that equal opportunity for persons with disabilities is hampered by physical barriers and lack of appropriate facilities.

...

138. The Committee notes with concern the high concentration of land in the hands of a minority, and its negative effects on the equitable distribution of wealth.

...

147. The Committee recommends that the State party take immediate remedial action to reduce the persistent, extreme inequalities and imbalances in the distribution of resources and income and access to basic services among various geographical regions, states and municipalities, including speeding up the process of agrarian reform and of granting land titles.

148. The Committee urges the State party to take immediate remedial action to ensure that all the Covenant rights are effectively upheld and that concrete remedies, judicial or otherwise, are provided to those whose economic, social and cultural rights are infringed, especially in relation to disadvantaged and marginalized groups. In this regard, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

...

150. The Committee strongly recommends that the State party's obligations under the Covenant should be taken into account in all aspects of its negotiations with the international financial institutions to ensure that the enjoyment of economic, social and cultural rights, particularly by the most disadvantaged and marginalized groups, are not undermined.

...

153. The Committee urges the State party to adopt concrete measures to enable persons with disabilities to enjoy fully the rights guaranteed by the Covenant.

EQUALITY AND DISCRIMINATION - GENERAL

- New Zealand, ICESCR, E/2004/22 (2003) 35 at paras. 184, 194 and 196.

184. The Committee notes with regret the view expressed by the State party's delegation that economic, social and cultural rights are not necessarily justiciable.

...

194. Affirming the principle of the interdependence and indivisibility of all human rights, the Committee encourages the State party to reconsider its position regarding the justiciability of economic, social and cultural rights. Moreover, the Committee points out that the State party remains under an obligation to give full effect to the Covenant in its domestic legal order, providing for judicial and other remedies for violations of economic, social and cultural rights. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

...

196. The Committee recommends that the national Human Rights Commission take up economic, social and cultural rights as a comprehensive topic and that it ensure that those rights are duly reflected in the New Zealand Action Plan for Human Rights.

- Iceland, ICESCR, E/2004/22 (2003) 39 at paras. 215, 221, 228, 230 and 238.

215. The Committee welcomes the recent court practice in the State party whereby constitutional provisions are interpreted in the light of its international obligations. The Committee also notes with appreciation references made in the report and by the delegation to judgements of the Supreme Court of Iceland in which the Covenant has been invoked.

...

221. The Committee regrets that, as stated in its concluding observations on the second periodic report of Iceland,^{8/} the State party has not given full effect to the Covenant provisions in its domestic legal order, especially by providing for judicial and other remedies for violations of economic, social and cultural rights.

...

228. The Committee is concerned about the existence of poverty and social exclusion in the State party, in spite of the efforts undertaken to combat the phenomenon.

...

230. The Committee reiterates its previous recommendation that, if measures are taken to incorporate treaty obligations with respect to civil and political rights in the Icelandic legal system, similar measures should be taken simultaneously in respect of economic, social and cultural rights.^{8/} In this regard, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

...

238. The Committee reiterates its recommendation made in its earlier concluding observations on the poverty situation in Iceland^{10/} and urges the State party to pursue efforts

EQUALITY AND DISCRIMINATION - GENERAL

to combat poverty and social exclusion, particularly of the disadvantaged and marginalized groups, with the adoption of clear indicators to assess progress achieved...The Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights.^{7/}

Notes

...

^{7/} *Official Records of the Economic and Social Council, 2002, Supplement No. 2 (E/2002/22-E/C.12/2001/17), annex VII).*

...

^{8/} *Official Records of the Economic and Social Council, 2000, Supplement No. 2 (E/2000/22-E/C.12/1999/11 and Corr.1), chap. IV, paras. 77-78.*

...

^{10/} [*Official Records of the Economic and Social Council, 2000, Supplement No. 2 (E/2000/22-E/C.12/1999/11 and Corr.1), chap. IV], para. 88.*

- Israel, ICESCR, E/2004/22 (2003) 42 at paras. 249, 254, 256-260, 268, 272-276 and 284.

249. The Committee...notes with appreciation that the Supreme Court's rules of standing have been relaxed, allowing any person, regardless of citizenship, residency or other status, who contends that his or her rights have been unlawfully denied or infringed, formal access to the Court, and allowing even for an *actio popularis*. In particular, the Committee particularly appreciates that in the State party, plaintiffs seeking remedy for alleged violations of economic, social and cultural rights have access to and can make use of the judiciary system, which provides opportunities for the justiciability of the rights enshrined in the Covenant. In this regard, the Committee welcomes the information given on cases before the courts, in which reference has been made to Covenant provisions.

...

254. The Committee reiterates its statement made in its concluding observations on the initial report of Israel,^{11/} that the State party's continuing emphasis on its security concerns, which have even increased in recent years, has impeded the realization of economic, social and cultural rights within Israel and the occupied territories.

...

256. Despite the above-mentioned positive measures (para. 249), the Committee reiterates its concern that the Covenant has not been incorporated in the domestic legal order, and therefore cannot be directly invoked before the courts.

257. The Committee regrets that the judgement of the *Ka'adan* case has still not been implemented.

EQUALITY AND DISCRIMINATION - GENERAL

258. The Committee...reiterates its concern about the State party's position that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction, and that the Covenant is not applicable to populations other than the Israelis in the occupied territories. The Committee further reiterates its regret at the State party's refusal to report on the occupied territories.^{14/} In addition, the Committee is deeply concerned at the insistence of the State party that, given the circumstances in the occupied territories, the law of armed conflict and humanitarian law are considered as the only mode whereby protection may be ensured for all involved, and that this matter is considered to fall outside the sphere of the Committee's responsibility.

259. The Committee is deeply concerned about the continuing difference in treatment between Jews and non-Jews, in particular Arab and Bedouin communities, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. The Committee reiterates its concern that the excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens.^{15/} This discriminatory attitude is apparent in the continuing lower standard of living of Israeli Arabs as a result, *inter alia*, of higher unemployment rates, restricted access to and participation in trade unions, lack of access to housing, water, electricity and health care and a lower level of education, despite the State party's efforts to close the gap. In this regard, the Committee expresses its concern that the State party's domestic legal order does not enshrine the general principles of equality and non-discrimination.

260. The Committee is concerned that in spite of the enactment of the Equal Rights for People with Disabilities Law in 2000, the majority of its provisions have not been implemented. The situation is aggravated for persons with disabilities from the Arab sector.

...

268. The Committee is particularly concerned about limited access to and distribution and availability of water for Palestinians in the occupied territories, as a result of inequitable management, extraction and distribution of shared water resources, which are predominantly under Israeli control.

...

272. The Committee urges the State party to undertake steps towards the incorporation of the Covenant and its provisions in the domestic legal order. It refers the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

273. The Committee urges the State party to undertake steps to facilitate the implementation of the judgement in the *Ka'adan* case.

274. The Committee recognizes that the State party has serious security concerns, which must be balanced with its efforts to comply with its obligations under international human rights law. However, the Committee reaffirms its view that the State party's obligations under the Covenant apply to all territories and populations under its effective control. The

EQUALITY AND DISCRIMINATION - GENERAL

Committee repeats its position that, even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law. Moreover, the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under article 2, paragraph 1, for the actions of its authorities..

275. The Committee reiterates its recommendation that the State party take steps to ensure equality of treatment of all Israeli citizens in relation to all Covenant rights.^{20/}

276. The Committee urges the State party to undertake effective measures to combat discrimination against persons with disabilities, especially by providing access to public facilities and promoting access to basic services and employment, with particular attention to persons with disabilities from the Arab sector.

...

284. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution. In that connection, the Committee refers the State party to its general comment No. 15 (2002) on the right to water.

Notes

...

^{11/} *Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV, para. 233.*

...

^{14/} [*Official Records of the Economic and Social Council*], 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV, para. 237.

^{15/} [*Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV*], para. 236.

...

^{20/} [*Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV*], para. 260.

-
- Republic of Moldova, ICESCR, E/2004/22 (2003) 49 at paras. 301, 302, 320 and 323.

301. The Committee regrets that national courts have so far not made reference to the Covenant in any of their rulings.

EQUALITY AND DISCRIMINATION - GENERAL

302. The Committee notes with concern that the State party faces serious problems of corruption, which have a negative effect on the full exercise of the rights covered by the Covenant. The Committee is also concerned that low salaries of civil servants and judges may obstruct the effective implementation of measures to combat corruption.

...

320. The Committee requests the State party to clarify in its second periodic report whether individuals within the State party's territory may invoke the rights enshrined in the Covenant before the domestic courts and to provide relevant case law, if available. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant. Moreover, the Committee recommends that the State party take measures to raise awareness of the Covenant and of the possibility of invoking its provisions before the courts, among the judiciary and the public at large.

...

323. The Committee urges the State party to strengthen its efforts to combat corruption, including by ensuring the effective functioning of the Anti-Corruption Committee and to work towards ensuring better remuneration for civil servants and judges.

- Yemen, ICESCR, E/2004/22 (2003) 55 at paras. 351 and 370.

351. The Committee is concerned about the persistence of *de facto* discrimination, within Yemeni civil society, in relation to some marginalized and vulnerable groups, commonly referred to as *akhdam*, *ahjur* or *zubud* (derogatory terms for which no neutral alternatives exist).

...

370. The Committee urges the State party to undertake effective measures, such as awareness-raising campaigns and educational programmes, to combat *de facto* discrimination, in particular against marginalized and vulnerable groups in society commonly referred to as *akhdam*, *ahjur* or *zubud*.

- Guatemala, ICESCR, E/2004/22 (2003) 59 at paras. 402, 416, 420 and 434.

402. The Committee is concerned by the insufficient progress made by the State party towards the effective implementation of the peace agreements of 1996 (including the Comprehensive Agreement on Human Rights, the Agreement on Social and Economic Aspects and the Agrarian Situation) which has led to persistent serious problems, such as violence at the national level, intimidation, corruption, impunity and lack of constitutional, fiscal, educational and agrarian reforms. All these have impacted adversely on the full realization of economic, social and cultural rights enshrined in the Covenant, particularly with regard to indigenous peoples.

...

EQUALITY AND DISCRIMINATION - GENERAL

416. The Committee continues to be deeply concerned that the uneven distribution of wealth and land and the high level of social exclusion, in particular among indigenous and rural populations, hinder the full enjoyment of economic, social and cultural rights.

...

420. The Committee recommends that the State party make every possible effort, including through international assistance, to provide adequate follow-up to various issues contained in the peace agreements of 1996, which, following over 30 years of civil unrest, laid the foundation for national reconciliation and for the promotion of human rights.

...

434. The Committee reiterates its previous recommendation^{27/} and urges the State party to implement the measures contained in the peace agreements of 1996, in particular those related to the agrarian reform and the devolution of communal indigenous lands.

Notes

...

^{27/} *Official Records of the Economic and Social Council, 1997, Supplement No. 2 (E/1997/22-E/C.12/1996/6)*, chap. IV, para. 137.

- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 454, 455, 482 and 483.

454. The Committee is concerned about reports of cases where the lack of registration of place of residence and other identity documents in practice places limitations on the enjoyment of rights, including work, social security, health services and education. The Committee is also concerned about reports that some groups of people, including the homeless and the Roma, face particular difficulties in obtaining personal identification documents, including registration of residence.

455. The Committee notes the statement of the State party's delegation that any former citizen of the Soviet Union living in the country can exchange their old Soviet passports for new Russian Federation ones without any difficulty. However, the Committee is concerned about reports that registration and recognition of citizenship have been denied to some groups, particularly the Meskhetians living in Krasnodar Krai.

...

482. The Committee urges the State party to ensure that the lack of residence registration and other personal identity documents do not become an obstacle to the enjoyment of economic, social and cultural rights.

483. The Committee urges the State party to take effective measures to ensure that no one will be deprived of their legal status and enjoyment of rights as a consequence of the expiry of Soviet passports on 31 December 2003. The Committee also calls upon the State party

EQUALITY AND DISCRIMINATION - GENERAL

to ensure that the authorities in Krasnodar Krai legalize the residence of Meskhetians and members of other ethnic groups who have reportedly been denied registration.

- Democratic People's Republic of Korea, ICESCR, E/2004/22 (2003) 71 at paras. 519, 524, 538 and 544.

519. The Committee notes with concern that no case law on the application of the Covenant exists and that the Covenant has not been directly invoked before national courts, although the State party declares that the provisions of international human rights instruments, though not yet incorporated into its domestic law, are directly applied by the courts.

...

524. The Committee is concerned about information according to which citizens of the Democratic People's Republic of Korea who travel abroad without a passport in quest of employment and better living conditions are sent to labour camps upon return to their country.

...

538. The Committee requests the State party to include in its third periodic report information on how the provisions of the Covenant have been incorporated into its domestic legislation and to provide examples of cases of direct application, by the national courts, of the provisions of the Covenant.

...

544. The Committee recommends that the national legislation be reviewed in order to eliminate penalties against persons having travelled abroad in quest of employment and better living conditions.

- Lithuania, ICESCR, E/2005/22 (2004) 18 at paras. 74, 84, 96 and 106.

74. Despite the constitutional provision (third part of article 138) stipulating the primacy of international law and that the Covenant may be invoked before domestic courts, the Committee regrets the lack of information on specific decisions of domestic courts where reference has been made to the Covenant and its provisions, which indicates a lack of knowledge among the population about the Covenant and the possibility of invoking it directly before the courts.

...

84. The Committee is concerned about the unequal distribution of social benefits and social services depending on the place of residence.

...

96. The Committee recommends that the State party take measures to raise awareness of the Covenant and of the possibility of invoking its provisions before the courts among the public at large and the judiciary.

EQUALITY AND DISCRIMINATION - GENERAL

...

106. The Committee urges the State party to promote equal access to social benefits and social services by striving to correct regional imbalances.

- Greece, ICESCR, E/2005/22 (2004) 23 at paras. 124, 127, 132 and 153.

124. The Committee notes with appreciation that, in accordance with article 28, paragraph 1, of the Greek Constitution, the Covenant takes precedence over any contrary provision of the domestic law and that the Constitution, as revised in 2001, guarantees a wide range of social rights.

...

127. The Committee welcomes the adoption of a National Action Plan for Social Inclusion (2003-2005), which provides, *inter alia*, for financial support of low-income families, rent subsidies and interest-free loans for the purchase of houses.

...

132. The Committee notes with concern that economic, social and cultural rights normally also guaranteed to non-citizens, such as the right to non-discrimination or the right to free education, are reserved to Greek citizens under the State party's Constitution.

...

153. The Committee recommends that the State party harmonize its relevant constitutional provisions with its obligation to guarantee that the Covenant rights will be exercised without discrimination, based on the prohibited grounds as enshrined in the Covenant.

- Kuwait, ICESCR, E/2005/22 (2004) 29 at paras. 181, 186, 200 and 205.

181. The Committee is concerned, as other human rights treaty bodies, about the lack of clarity regarding the primacy of the Covenant over conflicting or contradictory national laws, and its direct applicability and justiciability in national courts. In this regard, the Committee notes that there is no case law in Kuwait on the application of the Covenant.

...

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

...

200. The Committee urges the State party to ensure that economic, social and cultural rights are incorporated into domestic legislation and made justiciable. The Committee points out that, irrespective of the system whereby international law is incorporated in the domestic legal order, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, it draws the attention of the State party to the Committee's general comment No. 9 (1998) on domestic application of the Covenant.

EQUALITY AND DISCRIMINATION - GENERAL

...

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

- Spain, ICESCR, E/2005/22 (2004) 34 at paras. 230 and 247.

230. While noting that undocumented immigrants residing in the State party enjoy a number of fundamental rights and freedoms, including the right to basic social services, health care and education, on the condition that they register with their local municipality, the Committee remains concerned about the precarious situation of the large number of those undocumented immigrants who only enjoy a limited protection of their economic, social and cultural rights.

...

247. The Committee urges the State party to take measures to ensure the effective protection of fundamental economic, social and cultural rights of all persons residing within its territory, in accordance with article 2, paragraph 2, of the Covenant. It further encourages the State party to promote the legalization of undocumented immigrants so as to enable them to enjoy fully their economic, social and cultural rights.

- Ecuador, ICESCR, E/2005/22 (2004) 39 at paras. 270, 280, 287, 303, 310, 322 and 325.

270. The Committee notes with appreciation that the new Constitution of Ecuador, adopted in 1998, declares that the State party is a multicultural and multi-ethnic State, and it incorporates a wide range of human rights, including a number of economic, social and cultural rights enshrined in the Covenant.

...

280. The Committee is deeply concerned about the high percentage of people with disabilities in the State party. While noting with appreciation the recent legislation that promotes the rights of people with disabilities, including access to education, employment, transportation, and communication, the Committee regrets that the State party has allocated few resources to ensure access to these services in practice.

...

287. The Committee is concerned that only a limited percentage of the Ecuadorian population is entitled to social security benefits, especially to sickness and maternity insurance.

...

303. The Committee urges the State party to conduct research on the possible reasons for the high disability rate and provide detailed information in its third periodic report with

EQUALITY AND DISCRIMINATION - GENERAL

respect to such causes as well as the progress made to ensure the fulfilment of the economic, social and cultural rights of people with disabilities.

...

310. The Committee urges the State party to increase the coverage of the social security system, especially for self-employed workers and women.

...

322. The Committee strongly recommends that the State party's obligations under the Covenant should be taken into account in all aspects of its negotiations with the international financial institutions and other regional trade agreements to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.

...

325. The Committee recommends that the State party take action to ensure that all the Covenant rights are effectively upheld and that concrete remedies, judicial or otherwise, are provided to those whose economic, social and cultural rights are infringed, especially in relation to the disadvantaged and marginalized groups. In this regard, the Committee draws the attention of the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

- Malta, ICESCR, E/2005/22 (2004) 45 at paras. 339 and 355.

339. The Committee regrets that the Covenant has not been incorporated into domestic law and therefore cannot be directly invoked before the domestic courts.

...

355. The Committee recommends that the State party reconsider the matter of incorporation of the Covenant into domestic law. The Committee points out that, irrespective of the system through which international law is incorporated in the domestic legal order, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 (1998) on domestic application of the Covenant.

- Denmark, ICESCR, E/2005/22 (2004) 49 at paras. 395, 397 and 408.

395. The Committee is concerned at the lack of constitutional or other legislative provisions in the State party guaranteeing the right to housing. The Committee is also concerned about the difficulties faced by disadvantaged and marginalized groups, in particular immigrants, in renting or obtaining public housing owing to discriminatory practices. The Committee also notes with concern the increase in homelessness among the immigrant population in the State party.

...

EQUALITY AND DISCRIMINATION - GENERAL

397. The Committee welcomes the newly established mechanism within the Danish Institute for Human Rights to receive complaints from individuals in cases of discrimination based on race and encourages the State party to continue to take effective measures to strengthen the work of this Institute, *inter alia* through the allocation of adequate resources, and to consider expanding its competence so as to enable it to receive complaints of violations of a wider range of human rights, including economic, social and cultural rights.

...

408. The Committee encourages the State party to consider enacting specific legislation providing for the right to housing. The Committee also recommends, in line with the Committee's General Comment No. 4 (1991) on the right to adequate housing (article 11, paragraph 1, of the covenant), that the State party adopt national policies to ensure that all families have adequate housing facilities and that adequate resources are allocated for social housing, particularly for disadvantaged and marginalized groups such as immigrants. The Committee further encourages the State party to take measures to address the problem of homelessness, particularly among the immigrant population.

- Italy, ICESCR, E/2005/22 (2004) 54 at paras. 424, 428, 431, 440, 441, 447 and 452.

424. The Committee is concerned that the State party still considers that some economic, social and cultural rights, including the right to adequate housing, are not justiciable since they entail financial burdens upon the State. In this regard, the Committee notes the scarcity of court decisions in which the Covenant has been invoked.

...

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

...

431. The Committee reiterates its concern about the persistent regional inequalities and the considerable levels of poverty, especially in the southern parts of the country. The Committee takes note of the decision by the State party to increase the assessment period for the Minimum Integration Income scheme, which is presently being implemented by 306 municipalities.

...

440. Affirming the principle of the interdependence and indivisibility of all human rights, the Committee encourages the State party to reconsider its position regarding the justiciability of economic, social and cultural rights. Moreover, the Committee considers that the State party remains under an obligation to give full effect to the Covenant in its

EQUALITY AND DISCRIMINATION - GENERAL

domestic legal order, providing for judicial and other remedies for violations of all economic, social and cultural rights. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 (1998) on domestic application of the Covenant.

441. The Committee recommends that the State party provide appropriate training to the judiciary, prosecutors and other officials responsible for the implementation of the economic, social and cultural rights enshrined in the Covenant to ensure that those rights are consistently enforced in courts of law.

...

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

...

452. The Committee urges the State party to integrate economic, social and cultural rights in its National Action Plan against Poverty and Social Exclusion. In this regard, the Committee refers the State party to the Committee's statement on Poverty and the International Covenant on Economic, Social and Cultural Rights. The Committee also urges the State party to establish the Minimum Integration Income Scheme at the national level to combat poverty.

- Chile, ICESCR, E/2005/22 (2004) 67 at paras. 539, 540, 556, 557 and 559.

539. The Committee notes that the amendment of article 5 of the Constitution in 1989 extends the range of rights embodied in article 19 of the Constitution to include rights guaranteed by international treaties to which Chile is party. However, the Committee is concerned that some economic, social and cultural rights, including the right to housing, are not considered justiciable in the State party. In this regard the Committee notes the scarcity of case law in which the rights of the Covenant have been invoked before and directly applied by domestic courts.

540. The Committee notes with concern the lack of constitutional recognition of indigenous peoples in the State party and that indigenous peoples, despite the existence of various programmes and policies to improve their situation, remain disadvantaged in the enjoyment of their rights guaranteed by the Covenant. It also regrets that the State party has not ratified ILO Convention No. 169 (1989) concerning indigenous and tribal peoples, and that unsettled claims over indigenous lands and national resources remain a source of conflict and confrontation.

...

EQUALITY AND DISCRIMINATION - GENERAL

556. The Committee recommends that the State party continue its efforts to give full effect to the Covenant in domestic law... In this respect, it draws the attention of the State party to the Committee's General Comment No. 9 (1998) on domestic application of the Covenant. The State party should ensure that judicial training take full account of the justiciability of Covenant rights and take measures to increase awareness of the possibility of invoking its provisions before the courts.

557. The Committee recommends that the State party ensure the existence of an effective legal and institutional framework for the promotion and protection of all the rights of the Covenant.

...

559. The Committee recommends that the State party include recognition of its indigenous peoples in the Constitution, ratify ILO Convention No. 169 (1989), and continue to strengthen its efforts to ensure the effective enjoyment by indigenous people of their economic, social and cultural rights.

- Zambia, ICESCR, E/2006/22 (2005) 19 at paras. 79, 80, 84, 102, 105 and 107.

79. The Committee, while noting the persistence of customs and traditions harmful to women, children and older persons, is of the view that the State party has within its power the ability to immediately implement the rights in Part II of the Covenant as required, and to meet its minimum obligations for the progressive realization of the rights in Part III of the Covenant.

80. The Committee regrets that, although the State party has adopted a certain number of laws in the area of economic, social and cultural rights, the Covenant has not yet been fully incorporated in the domestic legal order.

...

84. The Committee is concerned that article 23 (4) of the current Constitution of the State party provides for exclusions and exceptions to the prohibition against discrimination, including with respect to adoption, marriage, divorce, burial, devolution of property on death, and other matters of personal law, and to the application of customary law.

...

102. Reaffirming the principle of the interdependence and indivisibility of all human rights, and that all economic, social and cultural rights are justiciable, the Committee strongly recommends that the State party incorporate the International Covenant on Economic, Social and Cultural Rights into its domestic law. The Committee points out that, following ratification of an international instrument, the State party is under an obligation to comply with it and to give it full effect in its domestic legal order. In this respect, the Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.

EQUALITY AND DISCRIMINATION - GENERAL

...

105. The Committee recommends that the obligations of Zambia under the Covenant be taken into account in all aspects of its negotiations with international financial institutions, such as the IMF and the World Bank, so as to ensure that the rights enshrined in the Covenant are duly protected for all Zambians and in particular, for the most disadvantaged and marginalized groups of society. The Committee refers the State party to its statement to the WTO Third Ministerial Conference adopted by the Committee at its twenty-first session in 1999.^{7/}

...

107. The Committee recommends that the State party facilitate the constitutional review process and, in particular, consider amending article 23 (4) of the current Constitution.

Notes

...

^{7/} *Official Records of the Economic and Social Council, 2000*, Supplement No. 2 (E/2000/22-E/C.12/1999/11 and Corr.1), annex VII.

- China, ICESCR, E/2006/22 (2005) 25 at paras. 143, 171, 174, 198 and 199.

143. The Committee is concerned that non-citizens, including asylum-seekers, refugees and stateless persons, are excluded from the constitutional guarantees to the enjoyment of rights and freedoms enshrined in the Covenant extended to all citizens in the State party. The Committee notes that some asylum-seekers are excluded by the refugee determination procedure of the State party, in particular those coming from the Democratic People's Republic of Korea, who are regarded by the State party as economic migrants and are thus compelled to return to their countries.

...

171. The Committee urges the State party to ensure that legal and judicial training takes full account of the justiciability of the rights contained in the Covenant and promotes the use of the Covenant as a source of law in domestic courts. The Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant...

...

174. The Committee calls upon the State party to take the necessary steps to ensure that all persons under its jurisdiction enjoy economic, social and cultural rights enshrined in the Covenant without discrimination. In addition, the Committee urges the State party to ensure that its asylum procedures do not discriminate, in purpose or in effect, against asylum-seekers on the basis of race, colour or ethnic or national origin, as provided for under article 2, paragraph 2, of the Covenant. The Committee recommends that the State party consider adopting subsidiary forms of protection to guarantee the right to remain for persons who are

EQUALITY AND DISCRIMINATION - GENERAL

not formally recognized as refugees but are seeking asylum and nevertheless require protection during that period, and granting the UNHCR and humanitarian organizations access to them...

...

198. The Committee strongly recommends that the State party's obligations under the Covenant be taken into account in all aspects of its negotiations with the international financial institutions and other regional trade agreements in order to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.

199. The Committee recommends that the State party continue to ensure that its international human rights obligations and the present recommendations are taken fully into account when entering into technical cooperation and other arrangements.

- China (Hong Kong Special Administrative Region), ICESCR, E/2006/22 (2005) 34 at paras. 203, 213 and 225.

203. The Committee welcomes the extensive efforts made by the Hong Kong Special Administrative Region, including awareness-building campaigns, to combat prejudices and discrimination against persons with physical and mental disabilities.

...

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

...

225. The Committee urges the Hong Kong Special Administrative Region to review the eligibility criteria for the the Comprehensive Social Security Assistance so as to ensure that all those in need, including low-income persons and families, older persons and new migrants, are adequately covered by the scheme to enable them to enjoy a decent standard of living.

- China (Macao Special Administrative Region), ICESCR, E/2006/22(2005) 38 at paras. 232 and 233.

232. The Committee welcomes the assurance that the Covenant may be directly invoked before domestic courts in the Macao Special Administrative Region, and that there have been specific decisions of domestic courts in which reference has been made to the Covenant

EQUALITY AND DISCRIMINATION - GENERAL

and its provisions.

233. The Committee welcomes the assurance provided by the Macao Special Administrative Region that the Office of the Ombudsman has the mandate to receive complaints on violations of economic, social and cultural rights.

- Serbia and Montenegro, ICESCR, E/2006/22 (2005) 41 at paras. 264, 270, 271, 274, 298, 299 and 302.

264. The Committee notes with appreciation that, in accordance with article 16 of the Constitutional Charter (2003) of the State Union of Serbia and Montenegro, the Covenant takes precedence over the law of Serbia and Montenegro and that of the Republics, and that the Charter on Human and Minority Rights and Civil Liberties protects many economic, social and cultural rights, including special rights of members of national minorities.

...

270. The Committee regrets the absence of case law on the application of the Covenant by Serbian and Montenegrin courts.

271. The Committee is concerned that there is no systematic and comprehensive anti-discrimination legislation in Serbia and Montenegro at the level of the Republics or the State Union.

...

274. The Committee expresses its deep concern about the uncertain residence status of and the limited access by refugees, returnees from third countries and internally displaced persons, including internally displaced Roma, to personal identification documents, which are a requirement for numerous entitlements such as eligibility to work, to apply for unemployment and other social security benefits, or to register for school.

...

298. The Committee urges the State party to ensure that the provisions of the Covenant are given effect by its domestic courts and that legal and judicial training takes full account of the justiciable elements of all Covenant rights, as defined in the Committee's general comments, and promotes the use of the Covenant as a domestic source of law. The Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant and invites the State party to include information concerning case law on the application of the Covenant in its next periodic report.

299. The Committee calls on the State party to adopt specific anti-discrimination framework legislation and to increase awareness about international anti-discrimination standards among judges and other members of the legal profession. The State party should ensure wide participation of the civil society in the adoption of such legislation.

...

EQUALITY AND DISCRIMINATION - GENERAL

302. The Committee calls on the State party to assist refugees, returnees and internally displaced persons by facilitating the procedures necessary to obtain personal documents, including birth certificates, identity cards and work booklets, to enable them to enjoy their economic, social and cultural rights.

- Norway, ICESCR, E/2006/22 (2005) 48 at paras. 331, 334, 337, 350 and 354.

331. The Committee welcomes the adoption of the Human Rights Act of 21 May 1999, which incorporated the Covenant into domestic law, stipulating in section 3 that the Covenant takes precedence over any other legislative provisions that conflict with it.

...

334. The Committee notes with appreciation the submission to Parliament, on 1 October 2004, of a new white paper on Norway as a multicultural society that includes people of various backgrounds, ethnicities, religions, cultures, languages and ways of life.

...

337. The Committee is concerned about cases of discrimination faced by persons of immigrant background, particularly in the areas of housing and work.

...

350. In the light of the 2001 Norwegian Supreme Court ruling in the *KLR case*, which states that international treaties that have been incorporated into national legislation can only be directly applied when it is possible to derive concrete rights and duties from their provisions, the Committee reaffirms the principle of the interdependence and indivisibility of all human rights and that all economic, social and cultural rights are justiciable. It urges the State party to ensure that all the provisions of the Covenant are given effect by its domestic courts. In this regard, the Committee refers the State party to its general comment No. 9 (1998) on domestic application of the Covenant.

...

354. The Committee recommends that the State party strengthen measures to combat discrimination against persons of immigrant background and ensure the effective monitoring of anti-discrimination legislation.

CEDAW

- Iceland, CEDAW, A/57/38 part I (2002) 27 at paras. 237 and 238.

237. The Committee is concerned that the decisions of the Complaints Committee on Equal Status are not binding, *inter alia*, in cases where government agencies violate the law.

238. The Committee recommends that the State party consider strengthening the

EQUALITY AND DISCRIMINATION - GENERAL

enforcement mechanisms of the Complaints Committee, and, in particular, provide that its decisions have binding force.

- Denmark, CEDAW, A/57/38 part II (2002) 120 at paras. 319 and 320.

319. The Committee is concerned that the Convention has not been incorporated into domestic legislation. It notes that the Committee on Incorporation of Human Rights Conventions into Danish Legislation, appointed by the Minister of Justice in 1999 to examine the advantages and disadvantages of incorporating the general human rights treaties into Danish legislation, on completing its work in October 2001, recommended that the Convention, despite being considered central to the protection of human rights, should not be incorporated into Danish legislation...

320. The Committee recommends that the State party take steps to incorporate the Convention into domestic law, when considering the recommendations of the Committee on incorporation of human rights conventions into Danish legislation...

- Guatemala, CEDAW, A/57/38 part III (2002) 171 at paras. 182 and 183.

182. The Committee notes with concern that, while the Constitution refers to the principle of equality, the terms “equity” and “equality” appear to be used synonymously in the State party’s reports and programmes.

183. The Committee calls upon the State party to recognize that the terms “equity” and “equality” are not synonymous and interchangeable and that the Convention is aimed at the elimination of discrimination and ensuring equality of women and men.

- El Salvador, CEDAW, A/58/38 part I (2003) 41 at paras. 255 and 256.

255. The Committee notes with concern that, while the Constitution refers to the principle of equality, the terms “equality” and “equity” are used as synonyms in plans and programmes.

256. The Committee urges the State party to note that the terms “equity” and “equality” are neither synonymous nor interchangeable and that the Convention is intended to eliminate discrimination against women and to ensure equality between women and men.

See also:

- Ecuador, CEDAW, A/58/38 part II (2003) 122 at paras. 331 and 332.

EQUALITY AND DISCRIMINATION - GENERAL

- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 351, 352, 357 and 358.

351. The Committee is concerned that, within the framework of the 1995 Budget Implementation Act, the transfer of federal funds to the provincial and territorial levels is no longer tied to certain conditions which previously ensured nationwide consistent standards in the areas of health and social welfare. It is also concerned about the negative impact that the new policy has had on the situation of women in a number of jurisdictions.

352. The Committee recommends that the federal Government reconsider those changes in the fiscal arrangements between the federal Government and the provinces and territories so that national standards of a sufficient level are re-established and women will no longer be negatively affected in a disproportionate way in different parts of the State party's territory.

...

357. While appreciating the federal Government's various anti-poverty measures, the Committee is concerned about the high percentage of women living in poverty, in particular elderly women living alone, female lone parents, aboriginal women, older women, women of colour, immigrant women and women with disabilities, for whom poverty persists or even deepens, aggravated by the budgetary adjustments made since 1995 and the resulting cuts in social services. The Committee is also concerned that those strategies are mostly directed towards children and not towards these groups of women.

358. The Committee urges the State party to assess the gender impact of anti-poverty measures and increase its efforts to combat poverty among women in general and the vulnerable groups of women in particular.

- Costa Rica, CEDAW, A/58/38 part II (2003) 86 at paras. 70 and 71.

70. The Committee takes note of the interpretation given by the Constitutional Chamber of Costa Rica to the principle of equality and of the State party's view regarding the need to utilize the two concepts of equity and equality also in the legal sphere. Nevertheless, the Committee expresses its concern over the fact that the terms "equality" and "equity" appear to be used as synonyms in the State party's plans and programmes.

71. The Committee requests the State party to take note of the fact that in the context of implementation of the Convention the terms "equity" and "equality" are not interchangeable or synonymous and that the Convention includes the obligation of States to eliminate discrimination against women and ensure *de jure* and *de facto* equality of women and men.

EQUALITY AND DISCRIMINATION - GENERAL

- Brazil, CEDAW, A/58/38 part II (2003) 93 at paras. 100, 101, 132 and 133.

100. The Committee notes with concern that, while international treaties to which Brazil is a party have become part of domestic law, there is disagreement in the judiciary as to the legal doctrine regarding the status of such international treaties and their direct applicability.

101. The Committee recommends that awareness-raising and sensitization of the judiciary and other law enforcement authorities be undertaken to alter the predominant view of the status of international treaties in the hierarchy of Brazilian law.

...

132. While appreciating the fact that the State party's views on the concept of "equity" take into account concrete unequal situations and lay the foundation for temporary special measures, the Committee notes that the terms "equality" and "equity" are used synonymously throughout the report in describing laws, policies, plans and strategies.

133. The Committee recommends that the terms "equity" and "equality" not be used synonymously or interchangeably and that a clear understanding of the term equality, both formal and *de facto*, should underpin laws, policies, plans and strategies to ensure the State party's compliance with its obligations under the Convention.

- Morocco, CEDAW, A/58/38 part II (2003) 101 at paras. 157, 160 and 161.

157. The Committee commends the State party for the establishment of the Ministry of Human Rights, which creates a positive environment for the protection and promotion of human rights. It welcomes the publication of the Convention in the official gazette in 2001 and the efforts made to integrate human rights principles in textbooks and curricula.

...

160. The Committee is concerned that although the Constitution guarantees equality before the law, it does not contain an explicit definition of the principle of equality between women and men or of discrimination on the basis of sex. The status of international instruments, including the Convention, with respect to the Constitution and national law has not yet been clarified.

161. The Committee encourages the State party to incorporate the principle of equality between women and men in the Constitution and to reflect fully the definition of discrimination contained in article 1 of the Convention in its national legislation. The Committee urges the State party to clarify the status of international conventions within its domestic legal framework and to ensure that the provisions of the Convention are fully reflected in all legislation.

EQUALITY AND DISCRIMINATION - GENERAL

- Japan, CEDAW, A/58/38 part II (2003) 130 at paras. 373 and 374.

373. While noting with satisfaction that the Government submitted a Human Rights Protection Bill to the Diet in March 2002, the Committee is concerned about the independence of the proposed human rights commission, which would be placed under the Ministry of Justice.

374. The Committee recommends that the human rights commission proposed in the Human Rights Protection Bill be established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134 of 20 December 1993, annex, known as the “Paris Principles”) in order to ensure that it will be an independent institution and adequately address women’s human rights.
- Bhutan, CEDAW, A/59/38 part I (2004) 21 at paras. 101 and 102.

101. The Committee is concerned that, in the event of conflict between the international conventions to which Bhutan is a party and domestic legislation, domestic law may prevail.

102. The Committee recommends that the State party incorporate in the Constitution the primacy of international conventions to which Bhutan is a party over domestic law in case of conflict. The Committee also recommends that the State party under all circumstances undertake awareness-raising and sensitization of the judiciary and other law enforcement authorities about the Convention.
- Dominican Republic, CEDAW, A/59/38 part II (2004) 141 at paras. 288 and 289.

288. The Committee notes with concern that, although the Constitution refers to the principle of equality, the term used in plans and programmes is “equity”, which the State party considers to be a compensatory means of achieving equality.

289. The Committee asks the State party to take note that the terms “equity” and “equality” are not synonymous or interchangeable, and that the Convention is directed towards eliminating discrimination against women and ensuring equality between women and men.
- Paraguay, CEDAW, A/60/38 part I (2005) 44 at paras. 277 and 278.

277. The Committee notes with concern that, although the Constitution refers to the principle of equality, the term mostly used in plans and programmes is “equity”, which the

EQUALITY AND DISCRIMINATION - GENERAL

State party considers to be a compensatory means of achieving equality.

278. The Committee urges the State party to take note that the terms “equity” and “equality” are not synonymous or interchangeable and that the Convention is directed towards eliminating discrimination against women and ensuring *de jure* and *de facto* equality between women and men. The Committee therefore recommends that the State party use the term “equality” henceforth.

- Lebanon, CEDAW, A/60/38 part II (2005) 109 at paras. 99 and 100.

99. The Committee is concerned that no unified personal status law exists in the country and that each Lebanese citizen is subject to the laws and courts pertaining to his or her religious community in regard to the regulation of personal status. The Committee notes that insufficient information has been provided in the reports and oral presentation on the religious communities existing in the country, including information on the various personal status codes governing these communities, in particular their scope and impact on women’s equality.

100. The Committee urges the State party to adopt a unified personal status code which is in line with the Convention and would be applicable to all women in Lebanon, irrespective of their religious affiliation...

- Guyana, CEDAW, A/60/38 part II (2005) 136 at paras. 287 and 288.

287. The Committee notes with concern that, although the Constitution refers to the principle of equality, the term most commonly used in government plans, programmes and official statements is “equity”, which the State party considers to mean “substantive” or *de facto* equality as required under the Convention.

288. The Committee urges the State party to take note that the terms “equity” and “equality” are not synonymous or interchangeable and can lead to conceptual confusion. The Convention is directed towards eliminating discrimination against women and ensuring *de jure* and *de facto* (formal and substantive) equality between women and men. The Committee therefore recommends that the State party use the term “equality” henceforth.

CAT

- Saudi Arabia, CAT, A/57/44 (2002) at paras. 100 and 101.

EQUALITY AND DISCRIMINATION - GENERAL

100. The Committee is concerned about the following:

...

(c) The different regimes applicable, in law and in practice, to nationals and foreigners in relation to their legal rights to be free from, and their ability to complain of, conduct in violation of the Convention. The Committee recalls that the Convention and its protections are applicable to all acts in violation of the Convention that occur within its jurisdiction, from which it follows that all persons are entitled, in equal measure and without discrimination, to the rights contained therein;

...

(h) The jurisdiction of the *Mutawe'en* officials to pursue, *inter alia*, violations of the moral code and to proscribe conduct they identify as not conducive to public morality and safety. The Committee is concerned that the powers of these officials are vaguely defined by law, and that their activities may violate the Convention;

...

101. The Committee recommends, in particular, that the State party:

...

(c) Ensure that its laws are in practice applied to all persons, regardless of nationality, gender, religious affiliation or other distinction, insofar as issues arising under the Convention are concerned;

...

(g) Ensure that its *Mutawe'en* officials exercise a clear and precise jurisdiction, in conformity with the Convention and other applicable rules of non-discrimination, in a manner regulated by law and subject to review by ordinary judicial authority;

...

- Egypt, CAT, A/58/44 (2002) 22 at para. 39.

39. The Committee welcomes the following:

...

(d) The efforts of the State party to give greater emphasis to human rights training of law enforcement officials and public servants;

(e) The establishment of a Human Rights Committee in 1999 with the mandate to study and propose ways and means of ensuring a more effective protection of human rights;

(f) The establishment in 2000 of the Directorate-General for Human Rights Affairs at the Ministry of Justice, whose functions are to assume responsibility for the fulfilment of the legal aspects of international obligations arising from human rights instruments, including the preparation of replies to international bodies, promote greater public awareness and provide training on these matters for members of the judiciary and the Department of Public Prosecutions;

EQUALITY AND DISCRIMINATION - GENERAL

(g) The State party's efforts to set up a national human rights commission.

- Venezuela, CAT, A/58/44 (2002) 32 at paras. 76 and 77.

76. The Committee welcomes with satisfaction the entry into force on 30 December 1999 of the new Constitution of the Bolivarian Republic of Venezuela, which demonstrates progress in human rights. In particular, the Committee considers as positive the following aspects of the Constitution:

(a) It gives constitutional status to human rights treaties, covenants and conventions, declares that they take precedence in domestic law, prescribes that they should be immediately and directly applicable and provides that the absence of any law regulating these rights does not impair their exercise;

(b) It recognizes the right of individuals to submit petitions or complaints to the international bodies established for the purpose in order to seek protection for their human rights. This recognition is in accordance with the declaration by the State party in 1994 under article 22 of the Convention;

(c) It requires the State to investigate and impose penalties for human rights offences, declares that action to punish them is not subject to a statute of limitations and excludes any measure implying impunity, such as an amnesty or a general pardon;

...

77. The Committee considers of particular importance the establishment under the Constitution of the Office of the Ombudsman as an independent body responsible for the promotion, protection and monitoring of the rights and safeguards established in the Constitution and in the international human rights instruments ratified by Venezuela.

- Cambodia, CAT, A/58/44 (2003) 40 at para. 99.

99. The Committee recommends that the State party:

...

(g) Take all the necessary measures to guarantee access to justice for all the people of Cambodia, particularly the poor and the inhabitants of rural and remote areas of the country;

...

- Slovenia, CAT, A/58/44 (2003) 44 at para. 114.

114. The Committee welcomes the ongoing efforts by the State party to reform its legal

EQUALITY AND DISCRIMINATION - GENERAL

system and revise its legislation so as to strengthen human rights in Slovenia. In particular, the Committee welcomes:

(a) The inclusion in the State party's report of findings of the Human Rights Ombudsman of Slovenia, which were often critical of the Government, and notes the important role of this institution in the promotion and protection of human rights in the State party;

...

(e) The decision of the Government adopted in 2003, according to which all government ministries should cooperate closely with NGOs in the preparation of legislation and by-laws that touch upon human rights and freedoms in any way;

...

- Bulgaria, CAT, A/59/44 (2004) 19 at para. 31.

31. The Committee notes the following positive developments:

(a) Ongoing efforts by the State party to reform its legislation related to the implementation of the Convention and aimed at strengthening the protection of human rights. In particular, the Committee welcomes the following:

...

(ii) The adoption by the National Assembly of the Law on the Protection against Discrimination on 16 September 2003 and other practical measures in the field of protection against discrimination, such as the recruitment of Roma into the police force;

...

(c) The setting up of a specialized Human Rights Commission within the National Police Service in August 2000, with a network of regional coordinators;

...

- Latvia, CAT, A/59/44 (2003) 48 at para. 98.

98. The Committee notes with appreciation the ongoing efforts by the State party aimed at strengthening human rights in Latvia. In particular, the Committee welcomes the following:

(a) Legislative measures:

(i) The establishment of the Constitutional Court in 1996 and the inclusion in the Constitution of chapter VIII devoted to fundamental human rights;

(ii) The establishment of the National Human Rights Office in 1995, which has the

EQUALITY AND DISCRIMINATION - GENERAL

mandate, *inter alia*, to review complaints of human rights violations, as well as to submit to the Constitutional Court cases of legal provisions it believes are at variance with the Constitution of Latvia;

(iii) The entry into force of the new Asylum Law in September 2002, aimed at bringing the national asylum system further into alignment with the European Union acquis on asylum and related international standards. The new Asylum Law also introduced two forms of complementary protection ("alternative status") for asylum-seekers;

...

- Yemen, CAT, A/59/44 (2003) 64 at para. 143.

143. The Committee welcomes the ongoing efforts of the State party to reform its legal system, revise its legislation and uphold democratic values, in particular:

(a) The establishment of the Human Rights Ministry in 2003 aimed at promoting and ensuring respect for human rights, including consideration of individual complaints;

...

(e) The ratification of the major human rights instruments and the incorporation of the provisions of these international treaties into the domestic legal order;

(f) The human rights education and training activities and the State party's openness to international cooperation, as reflected in the agreement concluded with the Office of the High Commissioner for Human Rights;

...

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

107. The Committee notes the following positive developments:

(a) The extensive political, legal and social reforms on which the State party has embarked, including:

(i) The adoption of the National Action Charter in 2001 which outlines reforms aimed at enhancing non-discrimination, due process of law and the prohibition of torture and arbitrary arrest and stating, *inter alia*, that any evidence obtained through torture is inadmissible;

...

EQUALITY AND DISCRIMINATION - GENERAL

(b) The State party's accession to international human rights treaties including the Convention against Torture in 1998 and the Convention on the Elimination of All Forms of Discrimination against Women in 2002 and assurances from the delegation that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights "have been agreed upon and are in the process of ratification";

...

CRC

- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 36 and 37.

36. The Committee, while taking note that the adoption of some national codes is currently being considered, in particular a new criminal code and a code of criminal procedure for juveniles, remains nevertheless concerned that domestic and customary laws still do not fully comply with the provisions and principles of the Convention.

37. The Committee encourages the State party:

(a) To take all necessary measures to ensure that its domestic legislation, including customary laws, conforms fully to the principles and provisions of the Convention;

(b) To ratify the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(c) To ratify the African Charter on the Rights and Welfare of the Child; and

(d) To seek technical assistance from, among others, UNICEF and OHCHR.

- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 558 and 559.

558. The Committee emphasizes that the human rights of children cannot be realized independently from the human rights of their parents, or in isolation from society at large. The Committee notes the 1998 Law on Freedom of Conscience and Religious Organizations, and recent amendments to the Civil and Criminal Codes relating to the freedom of religion. In the light of article 14 of the Convention, the Committee is concerned that restrictions on the freedom to manifest one's religion, particularly Islam, do not comply with the requirements outlined in article 14, paragraph 3.

EQUALITY AND DISCRIMINATION - GENERAL

559. The Committee recommends that the State party take effective measures, including enacting or rescinding legislation where necessary, 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.

- Greece, CRC, CRC/C/114 (2002) 25 at paras. 160 and 161.

160. Noting the progress made through the 1999 presidential decree expanding the rights of asylum-seekers and recent legislation allowing unaccompanied minors to apply for asylum, the Committee remains concerned at:

...

(e) Reports of discrimination against asylum-seekers and refugees by, among others, police, employers and teachers which may affect the children involved;

...

161. The Committee recommends that the State party:

...

(d) Make every effort to end practices of discrimination against child asylum-seekers or refugees and their families including, where relevant, through prosecution of those responsible for such discrimination and through the use of information campaigns;

...

- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 391 and 392.

391. The Committee welcomes the existence of an ombudsman with a mandate to receive complaints from children. In addition, the Committee notes that the State party established a Human Rights Commission in 1998 and that a Child Rights Unit has been created in 1999 within this institution. The Committee is concerned, however, at the confusion relating to the role of this Unit... as it is responsible for both coordination and monitoring of children's rights and policies. The Committee is also concerned that insufficient resources have been allocated to allow the Child Rights Unit to function effectively.

392. The Committee suggests that the State party review the status, role and functions of the Human Rights Commission and its Child Rights Unit in order to establish an independent national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134), which should be competent to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, at the local levels and to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively. The Committee also recommends that the State party allocate adequate financial and human resources to the Human Rights Commission and its Child

EQUALITY AND DISCRIMINATION - GENERAL

Rights Unit to ensure its effective functioning. The Committee further suggests that the State party conduct an awareness-raising campaign about the Human Rights Commission and its Child Rights Unit to facilitate its effective use by children. Finally, the Committee suggests that the State party seek technical assistance from OHCHR, and UNICEF, among others.

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 455-457.

455. Noting the universal values of equality and tolerance inherent in Islam, the Committee observes that in the State party narrow interpretations of Islamic texts in areas relating to personal status law may impede the enjoyment of some human rights protected under the Convention.

456. The Committee is concerned that in the case of Muslims the Shariah Court system - which applies Shariah personal law (marriage, divorce, custody and guardianship, inheritance, maintenance) and criminal law - lacks many basic and minimum international safeguards and procedures, including those contained in the Convention, without which the right to a fair trial or adequate access to the courts can be guaranteed in practice. In particular, the Committee is concerned that:

(a) Shariah remains uncodified and is applied in its classical sense without reference to State legislation; and

(b) Because it is uncodified the system may be subject to arbitrariness, inconsistencies, and lack of uniformity between judgements between different cadis, or judges, between Shi'a and Sunni departments and disparities with decisions of the secular courts.

457. The Committee recommends that the State party:

(a) Conduct a comprehensive review of its domestic laws, administrative regulations and procedural rules, including Shariah, to ensure that they conform to international human rights standards, including the Convention;

(b) Ensure that laws are sufficiently clear and precise, are published, and are accessible to the public.

See also:

- United Arab Emirates, CRC, CRC/C/118 (2002) 90 at para. 370.
- Guinea-Bissau, CRC, CRC/C/118 (2002) 12 at paras. 51 and 52.

EQUALITY AND DISCRIMINATION - GENERAL

51. The Committee is concerned that:

(a) The list of criteria for which discrimination is prohibited under the Constitution, as described in the State party's report (para. 146), is limited in relation to article 2 of the Convention and omits, notably, discrimination on the grounds of political belief;

(b) As noted in the State party's report (para. 140) "girls are highly penalized not only at the level of the family but in society in general";

(c) Discrimination against children with disabilities is prevalent.

52. The Committee recommends that the State party:

(a) Amend the legislation to ensure that it fully corresponds with the provisions of article 2 of the Convention;

(b) Formulate policies and programmes with a view to addressing discrimination against specific groups of children, in particular girls and children with disabilities.

- Tunisia, CRC, CRC/C/118 (2002) 68 at paras. 278 and 279.

278. The Committee welcomes the information on the measures taken to address discrimination against children born out of wedlock, in line with the Committee's previous recommendations, although it remains concerned at the implementation of the legislation in practice. It furthermore observes that the principle of non-discrimination (art. 2) does not figure prominently in the new Child Protection Code. The Committee is deeply concerned that the principle of non-discrimination is not fully implemented in practice with respect to certain groups.

...

279. In accordance with article 2 of the Convention, the Committee recommends that the State party:

(a) Make concerted efforts at all levels to address discrimination, notably discrimination based on the political and human rights activities, expressed opinions or beliefs of children or their parents, legal guardians or family members; disability; national, ethnic, or social origin, by means of a review and reorientation of policies, including increased budgetary allocations for programmes targeting the most vulnerable groups;

(b) Enhance efforts to close gaps in the enjoyment of rights between different regions, and between urban and rural communities;

EQUALITY AND DISCRIMINATION - GENERAL

(c) Ensure effective law enforcement, undertake studies and launch comprehensive public information campaigns to prevent and combat all forms of discrimination, in line with previous recommendations ([CRC/C/15/Add.39], para. 7).

- Saint Vincent and the Grenadines, CRC, CRC/C/118 (2002) 101 at paras. 430 and 431.

430. The Committee is concerned that:

(a) The Constitution of Saint Vincent and the Grenadines does not fully reflect the provisions of article 2 of the Convention and, in particular, does not specifically prohibit discrimination on the grounds of language, national, ethnic or social origin, property, disability, birth or other status;

(b) With reference, *inter alia*, to the findings of the Committee on the Elimination of Racial Discrimination, there are occurrences of racial discrimination affecting children, including the children of some minorities, such as the Amerindians and Asians, who form a disproportionate proportion of the population with lower-income levels;

(c) Children with disabilities are *de facto* discriminated against by the absence of specific legislation to cater for their special needs and to provide them with appropriate facilities, and by the absence of effective policies and programmes to facilitate their integration into regular schools;

(d) Children who are known to be infected with HIV/AIDS are discriminated against at school by some teachers.

431. The Committee recommends that the State party:

(a) Amend its legislation, including the Constitution, to ensure that it fully corresponds with the provisions of article 2 of the Convention and to ensure the full implementation of non-discrimination provisions, giving special attention to children infected or affected by HIV/AIDS, to children with disabilities and to racial discrimination;

(b) Adopt legislation providing for the protection of the rights of children with disabilities, including with regard to the provision of special services and facilities for children in need of such support.

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

109. The Committee notes with concern the absence of information in the State party's

EQUALITY AND DISCRIMINATION - GENERAL

report on racial discrimination, and the limited amount of information regarding acts of discrimination against children from single-parent families, children born out of wedlock, children with disabilities, girls and migrant families. It is also concerned that the Constitution does not explicitly prohibit discrimination on the grounds of race, colour, language, political or other opinion, national or ethnic origin, disability, birth or other status, as stated in the Convention.

110. The Committee recommends that the State party enact legislation explicitly prohibiting discrimination in order to include all grounds enumerated in article 2 of the Convention. In addition, the Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination, in particular against children from single-parent families, children born out of wedlock, children with disabilities, children of migrant workers and girls through, *inter alia*, public education and awareness campaigns.

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

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

371. The Committee recommends that the State party:

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

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

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

...

- Jamaica, CRC, CRC/C/132 (2003) 86 at paras. 417 and 418.

417. The Committee is concerned that:

(a) The Constitution of Jamaica does not fully reflect the provisions of article 2 of the Convention and, in particular, does not specifically prohibit discrimination on the grounds of the child's or his or her parents' or legal guardian's language, religion, ethnic or social origin, property, disability, birth or other status;

EQUALITY AND DISCRIMINATION - GENERAL

(b) With reference, *inter alia*, to the concerns of the Committee on the Elimination of Racial Discrimination (CERD/C/60/CO/6), the State party does not pay enough attention to the problems of racial discrimination within the State party;

(c) Children with disabilities are *de facto* discriminated against by the absence of specific guarantees for their integration into regular schools and are hindered, *inter alia*, by limited access to facilities;

(d) Children who are known to be infected with HIV/AIDS are discriminated against at school by some teachers.

418. The Committee recommends that the State party amend its legislation, including the Constitution, to ensure that it fully corresponds to the provisions of article 2 of the Convention and to ensure the full implementation of non-discrimination provisions, giving special attention to children infected with or affected by HIV/AIDS, children with disabilities, equality between boys and girls and racial discrimination.

- Syrian Arab Republic, CRC, CRC/C/132 (2003) 116 at paras. 535 and 536.

535. The Committee notes that the State party has undertaken a commitment to review national legislation *vis-à-vis* the Convention. It further notes various recent and proposed legislative measures with respect to child rights (e.g. amendments to the Personal Status Code and higher penalties sought for infringements of the Compulsory Education Act), but the Committee is concerned that they do not sufficiently reflect a comprehensive human rights-based approach to the implementation of the Convention. Moreover, it is concerned that in the area of personal status matters, the application of different laws (e.g. 1953 Law of Personal Status) governing different religious communities (i.e. Muslims, Druze, Christians and Jews), and consequently recourse to the different court systems (i.e. Shariah, *madhabi*, and *ruhj* courts), may lead to discrimination in the enjoyment of children's rights.

536. The Committee recommends that the State party:

(a) Expedite the comprehensive review of its law, administrative regulations and legal procedural rules to ensure that they conform to international human rights standards, including the Convention;

(b) Take all possible measures to reconcile the interpretation of religious laws with fundamental human rights;

(c) Ensure that laws are sufficiently clear and precise, are published, and are accessible to

EQUALITY AND DISCRIMINATION - GENERAL

the public.

- Kazakhstan, CRC, CRC/C/132 (2003) 129 at paras. 635 and 636.

635. The Committee is concerned at the prevailing poor situation of children with disabilities. In particular it is concerned:

- (a) That in the Constitution, disability is not included in the list of grounds for protection from discrimination;
- (b) At the practice of institutionalizing children with disabilities;
- (c) At the lack of counselling and psychological care provided by the State for disabled children;
- (d) At the lack of State support to families with disabled children;
- (e) At the societal discrimination faced by children with disabilities;
- (f) At the considerable reduction of privileges, including free medical care and prosthetics;
- (g) At the considerable reduction in the resources allocated to residential homes;
- (h) At the limited inclusion of, and access by, children with disabilities to various areas of daily life, in particular with regard to the education system.

636. In light of article 23 of the Convention, the Committee recommends that the State party:

- (a) Undertake studies to determine the causes of and ways to prevent children becoming disabled;
- (b) Consider amending legislation so as to include all children below the age of 18 years into the category of disabled children;
- (c) Conduct public-awareness campaigns to raise awareness of the situation and the rights of children with disabilities and to counter negative attitudes which hamper the implementation of these rights. The promotion of their rights could further be advanced through, for instance, support to parents' organizations and community-based services and a sustained programme to move children from institutions to a good family environment;

EQUALITY AND DISCRIMINATION - GENERAL

(d) Allocate the necessary resources for programmes, medicines and prostheses, trained staff and facilities for all children with disabilities, especially for those living in rural areas;

(e) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the issue of "The rights of children with disabilities" (CRC/C/69, paras. 310-339), further encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible.

- Georgia, CRC, CRC/C/133 (2003) 34 at paras. 568 and 569.

568. The Committee, while noting that the primary responsibility of securing the necessary living conditions for the child lies with the parents, shares the concerns of the Committee on Economic, Social and Cultural Rights about the increasing level of poverty, the poor living conditions of the majority of the population, the high unemployment rate, the low level of salaries and of social security benefits, and the rampant problem of corruption. The Committee is concerned that such a situation adversely affects the physical, mental, spiritual, moral and social development of children. Furthermore, the Committee notes that certain benefits are limited to children and families residing in the capital, Tbilisi.

569. The Committee encourages the State party to implement fully the Poverty Reduction Programme and to take measures to assist parents and others responsible for children by intensifying efforts to combat poverty with a view to improving the standard of living of children and providing material assistance and support programmes, without discrimination based on place of residence, in accordance with article 27 of the Convention.

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 33-35.

33. The Committee welcomes the important legislative reform undertaken which will provide for the foundations of a State based on democracy and human rights, in particular child rights. The Committee also shares the concern expressed by the State party that the ratification of the Convention is not backed by an Act of Parliament.

34. The Committee encourages the State party to consider the possibility of supporting the ratification of the Convention by an Act of Parliament.

35. The Committee also encourages the State party to consider ratifying other human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Rome Statute of the

EQUALITY AND DISCRIMINATION - GENERAL

International Criminal Court, and to do so with the support of an Act of Parliament.

- Germany, CRC, CRC/C/137 (2004) 51 at paras. 260 and 261.

260. The Committee is aware of the numerous laws relevant to children's rights which have been adopted since the consideration of the initial report but remains concerned that the Convention has not been incorporated into the Basic Law, as foreseen at the time of the initial report.

261. In light of its previous recommendations ([CRC/C/15/Add.43], para. 21), the Committee recommends that the State party:

- (a) Reconsider the incorporation of the Convention into the Basic Law;
- (b) Ensure, through an appropriate mechanism, that all national and Länder laws fully conform with the Convention;
- (c) Ensure that adequate provision is made for the effective implementation of those recommendations, including through budgetary allocations.

- India, CRC, CRC/C/137 (2004) 75 at paras. 387, 388 and 403-406.

387. The Committee welcomes the fact that the Convention can be invoked before the courts and that the Supreme Court has adopted various decisions based on the Convention; however, the Committee remains concerned that domestic legislation, and in particular religious and personal laws which govern family matters, are not yet fully in conformity with the provisions and principles of the Convention.

388. In light of its previous recommendations (CRC/C/15/Add.115, para. 11), the Committee recommends that the State party:

- (a) Scrutinize carefully existing legislative and other measures, including religious and personal laws, both at the federal and state levels, with a view to ensuring that the provisions and principles of the Convention are implemented throughout the State party;
- (b) Ensure the implementation of its legislation and its wide dissemination.

...

403. In light of article 2 of the Convention, the Committee is deeply concerned at the widely

EQUALITY AND DISCRIMINATION - GENERAL

disparate levels of enjoyment of the rights in the Convention by girls, children living in certain states, rural areas and slums, and children belonging to certain castes and tribal and indigenous groups.

404. The Committee recommends that concerted efforts at all levels be taken to address social inequalities by reviewing and reorienting policies, including increasing budgetary allocations for programmes targeting the most vulnerable groups, and that technical assistance be sought from, among others, UNICEF.

405. The Committee is deeply concerned at persistent and significant social discrimination against children belonging to Scheduled Castes and Tribes and other tribal groups, reflected, *inter alia*, by the many violations of the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the low number of such violations dealt with by the courts, and the fact that a majority of the states have failed to set up the special courts provided for under this Act.

406. The Committee recommends that the State party, in accordance with article 17 of its Constitution and article 2 of the Convention, take all necessary steps to 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*, special measures to advance and protect these groups. The Committee recommends the full implementation of the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the 1995 Scheduled Castes and Scheduled Tribes Rules (Prevention of Atrocities) and the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The Committee encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat caste-based discrimination with a view to changing social attitudes, by involving, *inter alia*, religious leaders.

- Myanmar, CRC, CRC/C/140 (2004) 81 at paras. 383 and 384.

383. While noting that the State party has ratified the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, the Committee is concerned that it has not yet ratified most of the other main human rights instruments.

384. In order to strengthen the full implementation of all human rights, the Committee encourages the State party to ratify the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention

EQUALITY AND DISCRIMINATION - GENERAL

against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 77, 78, 81 and 82.

77. The Committee welcomes the State party's efforts to improve Brazil's health level, in particular the establishment of the Minimum Healthcare Allocation (PAB) in 1998. The Committee further notes the reduction of the incidence of child mortality as well as the positive changes observed in the child profile and in the HIV/AIDS incidence. Nevertheless, it is concerned at the low percentage of the population who are covered by at least one health plan and at the inequality in access to health services. The Committee is also concerned about health conditions, particularly of children who reside in rural areas, resulting in marked disparities in the quality of health services provided and of the lower socio-economic segments of the population in the North and North-east regions.

78. The Committee urges that the State party continue to develop the health system, ensuring the provision of the highest standard of health for all children, paying special attention to children in rural and geographically remote areas as well as those belonging to low-income families.

...

81. While taking into account the high priority given by the State party in implementing policies and programmes with a view to fighting hunger and poverty, the Committee notes that Brazil is a country with a relatively high level of development, and shares the concerns of the Committee on Economic, Social and Cultural Rights related to the persistent and extreme inequalities and imbalances in the distribution of wealth and resources (E/C.12/1/Add.87, para. 17). The Committee is concerned that the lives of a great number of children are marked by poverty, difficult access to, and deficient quality of, public services.

82. The Committee highly recommends that the State party:

(a) Continue to strengthen its policies and programmes to combat the factors responsible for the increasing number of children living in extreme poverty;

(b) Take measures in order to effectively reach the poorest segment of the population, by offering equal access to health, education, housing and other social services;

(c) Develop programmes and policies to ensure that all families have adequate resources and facilities.

EQUALITY AND DISCRIMINATION - GENERAL

- Angola, CRC, CRC/C/143 (2004) 78 at paras. 398 and 399.

398. The Committee is concerned at the discrimination faced by children with disabilities, girls, and children belonging to the San communities in the State party.

399. The Committee recommends that the State party take the necessary legislative measures to explicitly prohibit all forms of discrimination, in accordance with article 2 of the Convention. In this regard, it encourages the State party to include “disability” as a legally unacceptable ground for discrimination in the new constitution currently under consideration. The Committee also recommends that the State party undertake the necessary actions, including awareness-raising and educational campaigns, to reduce and prevent discrimination in practice, particularly against girls.

- Sweden, CRC, CRC/C/146 (2005) 8 at paras. 53 and 54.

53. The Committee is concerned about:

...

(b) The fact that the proportion of children with a foreign background who are placed in institutions is higher than that of Swedish children;

...

54. The Committee recommends that:

(a) The State party take preventive measures specifically targeted at families with a foreign background, including awareness-raising within social services about the relevance of cultural background and immigrant status, so that help can be given before a situation develops that necessitates the taking of children into care;

...

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 476 and 477.

476. The Committee is concerned that little progress has been made in the area of freedom of religion and notes that members of unrecognized religions continue to be discriminated against and do not have the same rights as those of recognized religions, for example with regard to access to social services. In addition, it continues to be concerned at reports that these minorities, in particular the Baha’i minority, are subjected to harassment, intimidation and imprisonment on account of their religious beliefs.

477. The Committee recommends that the State party take effective measures, including enacting or rescinding legislation, to prevent and eliminate discrimination on the grounds of religion or belief and ensure that members of minority religions are not imprisoned or

EQUALITY AND DISCRIMINATION - GENERAL

otherwise ill-treated on account of their religion and that access to education for their children is provided on an equal footing with others.

- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 618 and 619.

618. The Committee is deeply concerned about the significant disparities in the State party in the implementation of the rights enshrined in the Convention, reflected in a range of social indicators like enrolment in and completion of education, infant mortality rates and birth registration, indicating persistent discrimination against indigenous children, girls, children with disabilities and children living in rural areas.

619. In light of article 2 of the Convention, the Committee recommends that the State party intensify its efforts to prevent and eliminate all forms of *de facto* discrimination against indigenous children, children with disabilities, girls and children living in rural areas.

- Bosnia and Herzegovina, CRC, CRC/C/150 (2005) 49 at paras. 227, 228, 246 and 248.

227. The Committee is concerned that discrimination on grounds of ethnicity, political affiliation, national origin, social status, status as internally displaced persons or returnees, residence in rural areas and gender or disability continues to be widespread. The Committee also expresses concern at the information that - despite some improvements - the media sometimes contribute to stigmatization and social exclusion by conveying stereotyped messages and distrust of people belonging to minority and/or ethnic groups.

228. In accordance with article 2 of the Convention, the Committee recommends that the State party carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake on the basis of that evaluation the necessary steps to prevent and combat all discriminatory disparities. It also recommends that the State party strengthen its administrative and judicial measures to prevent and eliminate *de facto* discrimination against children, in particular children with disabilities, Roma children and children belonging to ethnic and/or religious minorities or other nationalities. The State party is also encouraged to develop, in consultation with the media, a code of conduct with a view to eliminating stereotyping and stigmatization of minority and/or ethnic groups in the media.

...

246. While the Committee welcomes the various legislative measures taken for the protection of children with disabilities, it notes with concern that discriminatory practices and prejudices still exist towards disabled persons, including children and that they lack sufficient medical care and educational opportunities.

...

248. The Committee encourages the State party to actively pursue its current efforts and to

EQUALITY AND DISCRIMINATION - GENERAL

continue to:

...

(c) Take concrete and specific measures to ensure that children with disabilities may exercise their right to education to the maximum extent possible and facilitate inclusion in the mainstream education system, including vocational education;

...

(e) Strengthen public awareness campaigns to change negative public attitudes towards persons with disabilities.

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 316-318, 352 and 354.

316. While noting that discrimination is prohibited under the Constitution and other relevant legislation, as well as the various efforts undertaken by the State party to eliminate discrimination, the Committee reiterates its deep concerns about the widely prevailing *de facto* discrimination against girls and children belonging to the most vulnerable groups such as the *Dalit* community, children belonging to indigenous or ethnic minority groups, refugee and asylum-seeking children, street children, children with disabilities and children living in rural areas. The Committee notes with grave concern that as a consequence of prevailing discriminatory attitudes, children belonging to vulnerable groups are particularly likely to fall victim to abuse and exploitation.

317. With reference, *inter alia*, to the concerns of the Committee on the Elimination of Racial Discrimination (CERD/C/64/CO/5) regarding the persistent *de facto* caste-based discrimination against *Dalit* in education, employment, marriage, access to public places including water sources and places of worship, the Committee expresses serious concern about the harmful effects of this prevailing form of discrimination on the physical, psychological and emotional well-being of the *Dalit* children in the State party.

318. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the right to non-discrimination, and to adopt appropriate legislation, where necessary, to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. In this regard, the Committee urges the State party to prioritize and target social services for children belonging to the most vulnerable groups, and to take all effective measures to ensure their protection from exploitation. The Committee encourages the State party to launch comprehensive public information campaigns to prevent and combat all forms of discrimination.

...

352. The Committee expresses concern about the high level of prevailing poverty in the State party, which hampers the respect for, and fulfilment of, the rights of children, particularly those living in rural areas, those living in slums and squats, and among the lower

EQUALITY AND DISCRIMINATION - GENERAL

castes and ethnic minorities, and the ability of their families to provide them with adequate protection.

...

354. In accordance with articles 26 and 27 of the Convention, the Committee recommends that the State party:

...

(b) Reinforce its efforts to provide support and material assistance to economically disadvantaged families, notably those living in rural areas, slums and squats and to guarantee the right of children to an adequate standard of living;

...

(d) Establish a social security policy along with a clear and coherent family policy, as well as effective strategies for using the social safety net benefits to further the rights of children and provide adequate financial resources to the social security system.

- Mongolia, CRC, CRC/C/150 (2005) 113 at paras. 554 and 555.

554. The Committee is concerned that the number of places available in services, such as day care and pre-school facilities, appears to be inadequate and there are notable regional disparities in this respect.

555. In the light of article 18, paragraph 3, of the Convention, the Committee recommends that the State party take immediate measures to increase the number of places in day care and pre-school facilities, paying particular attention to the regional equality.