

# EQUALITY AND DISCRIMINATION - RACIAL DISCRIMINATION

## II. GENERAL COMMENTS AND RECOMMENDATIONS

- CERD General Recommendation VII (Thirty-second session, 1985): Article 4: Legislation to Eradicate Racial Discrimination, A/40/18 (1985) 120.

The Committee on the Elimination of Racial Discrimination,

...

Recalling and reaffirming its General Recommendation I of 24 February 1972 and its Decision 3 (VII) of 4 May 1973,

..

Noting, however, that in a number of States parties the necessary legislation to implement article 4 of the Convention has not been enacted, and that many States parties have not yet fulfilled all the requirements of article 4 (a) and (b) of the Convention,

...

Bearing in mind the preventive aspects of article 4 to deter racism and racial discrimination as well as activities aimed at their promotion or incitement,

1. Recommends that those States parties whose legislation does not satisfy the provisions of article 4 (a) and (b) of the Convention take the necessary steps with a view to satisfying the mandatory requirements of that article;
2. Requests that those States parties which have not yet done so inform the Committee more fully in their periodic reports of the manner and extent to which the provisions of article 4 (a) and (b) are effectively implemented and quote the relevant parts of the texts in their reports;
3. Further requests those States parties which have not yet done so to endeavour to provide in their periodic reports more information concerning decisions taken by the competent national tribunals and other State institutions regarding acts of racial discrimination and in particular those offences dealt with in article 4 (a) and (b).

- CERD General Recommendation VIII (Thirty-eighth session, 1990): Concerning the Interpretation and Application of Article 1, Paragraphs 1 and 4, of the Convention, A/45/18 (1990) 79.

The Committee on the Elimination of Racial Discrimination,

Having considered reports from States parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic groups or groups,

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Is of the opinion that such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.

- CERD General Recommendation XI (Forty-second session, 1993): On Non-Citizens, A/48/18 (1993) 112 at paras. 1-3.

1. Article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination. Article 1, paragraph 2, excepts from this definition actions by a State party which differentiate between citizens and non-citizens. Article 1, paragraph 3, qualifies article 1, paragraph 2, by declaring that, among non-citizens, States parties may not discriminate against any particular nationality.

2. The Committee has noted that article 1, paragraph 2, has on occasion been interpreted as absolving States parties from any obligation to report on matters relating to legislation on foreigners. The Committee therefore affirms that States parties are under an obligation to report fully upon legislation on foreigners and its implementation.

3. The Committee further affirms that article 1, paragraph 2, must not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in other instruments, especially the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

- CERD General Recommendation XIII (Forty-second session, 1993): On the Training of Law Enforcement Officials in the Protection of Human Rights, A/48/18 (1993) 113 at paras. 1-3.

1. In accordance with article 2, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties have undertaken that all public authorities and public institutions, national and local, will not engage in any practice of racial discrimination; further, States parties have undertaken to guarantee the rights listed in article 5 of the Convention to everyone without distinction as to race, colour or national or ethnic origin.

2. The fulfilment of these obligations very much depends upon national law enforcement officials who exercise police powers, especially the powers of detention or arrest, and upon whether they are properly informed about the obligations their State has entered into under the Convention. Law enforcement officials should receive intensive

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training to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

3. In the implementation of article 7 of the Convention, the Committee calls upon States parties to review and improve the training of law enforcement officials so that the standards of the Convention as well as the Code of Conduct for Law Enforcement Officials (1979) are fully implemented. They should also include respective information thereupon in their periodic reports.

- CERD General Recommendation XIV (Forty-second session, 1993): On Article 1, Paragraph 1, of the Convention, A/48/18 (1993) 114 at paras. 1-3.

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

2. The Committee observes that a differentiation of treatment will not constitute discrimination if the criteria for such differentiation, judged against the objectives and purposes of the Convention, are legitimate or fall within the scope of article 1, paragraph 4, of the Convention. In considering the criteria that may have been employed, the Committee will acknowledge that particular actions may have varied purposes. In seeking to determine whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin.

3. Article 1, paragraph 1, of the Convention also refers to the political, economic, social and cultural fields; the related rights and freedoms are set up in article 5.

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- CERD General Recommendation XV (Forty-second session, 1993): Article 4: Organized Violence Based on Ethnic Origin A/48/18 (1993) 114 at paras. 1-7.
  1. When the International Convention on the Elimination of All Forms of Racial Discrimination was being adopted, article 4 was regarded as central to the struggle against racial discrimination. At that time, there was a widespread fear of the revival of authoritarian ideologies. The proscription of the dissemination of ideas of racial superiority, and of organized activity likely to incite persons to racial violence, was properly regarded as crucial. Since that time, the Committee has received evidence of organized violence based on ethnic origin and the political exploitation of ethnic difference. As a result, implementation of article 4 is now of increased importance.
  2. The Committee recalls its General Recommendation VII in which it explained that the provisions of article 4 are of a mandatory character. To satisfy these obligations, States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced. Because threats and acts of racial violence easily lead to other such acts and generate an atmosphere of hostility, only immediate intervention can meet the obligations of effective response.
  3. Article 4 (a) requires States parties to penalize four categories of misconduct: (i) dissemination of ideas based upon racial superiority or hatred; (ii) incitement to racial hatred; (iii) acts of violence against any race or group of persons of another colour or ethnic origin; and (iv) incitement to such acts.
  4. In the opinion of the Committee, the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression. This right is embodied in article 19 of the Universal Declaration of Human Rights and is recalled in article 5 (d) (viii) of the International Convention on the Elimination of All Forms of Racial Discrimination. Its relevance to article 4 is noted in the article itself. The citizen's exercise of this right carries special duties and responsibilities, specified in article 29, paragraph 2, of the Universal Declaration, among which the obligation not to disseminate racist ideas is of particular importance. The Committee wishes, furthermore, to draw to the attention of States parties article 20 of the International Covenant on Civil and Political Rights, according to which any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.
  5. Article 4 (a) also penalizes the financing of racist activities, which the Committee takes to include all the activities mentioned in paragraph 3 above, that is to say, activities deriving from ethnic as well as racial differences. The Committee calls upon States parties to investigate whether their national law and its implementation meet this requirement.

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6. Some States have maintained that in their legal order it is inappropriate to declare illegal an organization before its members have promoted or incited racial discrimination.

The Committee is of the opinion that article 4 (b) places a greater burden upon such States to be vigilant in proceeding against such organizations at the earliest moment. These organizations, as well as organized and other propaganda activities, have to be declared illegal and prohibited. Participation in these organizations is, of itself, to be punished.

7. Article 4 (c) of the Convention outlines the obligations of public authorities. Public authorities at all administrative levels, including municipalities, are bound by this paragraph. The Committee holds that States parties must ensure that they observe these obligations and report on this.

- CERD General Recommendation XIX (Forty-seventh session, 1995): Article 3: On Article 3 of the Convention, A/50/18 (1995) 150 at paras. 1-4.

1. The Committee on the Elimination of Racial Discrimination calls the attention of States parties to the wording of article 3, by which States parties undertake to prevent, prohibit and eradicate all practices of racial segregation and apartheid in territories under their jurisdiction. The reference to apartheid may have been directed exclusively to South Africa, but the article as adopted prohibits all forms of racial segregation in all countries.

2. The Committee believes that the obligation to eradicate all practices of this nature includes the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State.

3. The Committee observes that while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.

4. The Committee therefore affirms that a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports.

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- CERD General Recommendation XX (Forty-eighth session, 1996): Article 5: Non-Discriminatory Implementation of Rights and Freedoms, A/51/18 (1996) 124 at paras. 1-5.
  1. Article 5 of the Convention contains the obligation of States Parties to guarantee the enjoyment of civil, political, economic, social and cultural rights and freedoms without racial discrimination. Note should be taken that the rights and freedoms mentioned in article 5 do not constitute an exhaustive list. At the head of these rights and freedoms are those deriving from the Charter of the United Nations and the Universal Declaration of Human Rights, as recalled in the preamble to the Convention. Most of these rights have been elaborated in the International Covenants on Human Rights. All States Parties are therefore obliged to acknowledge and protect the enjoyment of human rights, but the manner in which these obligations are translated into the legal orders of States Parties may differ. Article 5 of the Convention, apart from requiring a guarantee that the exercise of human rights shall be free from racial discrimination, does not of itself create civil, political, economic, social or cultural rights, but assumes the existence and recognition of these rights. The Convention obliges States to prohibit and eliminate racial discrimination in the enjoyment of such human rights.
  2. Whenever a State imposes a restriction upon one of the rights listed in article 5 of the Convention which applies ostensibly to all within its jurisdiction, it must ensure that neither in purpose nor effect is the restriction incompatible with article 1 of the Convention as an integral part of international human rights standards. To ascertain whether this is the case, the Committee is obliged to inquire further to make sure that any such restriction does not entail racial discrimination.
  3. Many of the rights and freedoms mentioned in article 5, such as the right to equal treatment before tribunals, are to be enjoyed by all persons living in a given State; others such as the right to participate in elections, to vote and to stand for election are the rights of citizens.
  4. The States Parties are recommended to report about the non-discriminatory implementation of each of the rights and freedoms referred to in article 5 of the Convention one by one.
  5. The rights and freedoms referred to in article 5 of the Convention and any similar rights shall be protected by a State Party. Such protection may be achieved in different ways, be it by the use of public institutions or through the activities of private institutions. In any case, it is the obligation of the State Party concerned to ensure the effective implementation of the Convention and to report thereon under article 9 of the Convention. To the extent that private institutions influence the exercise of rights or the availability

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of opportunities, the State Party must ensure that the result has neither the purpose nor the effect of creating or perpetuating racial discrimination.

- CERD General Recommendation XXII (Forty-ninth session, 1996): Article 5 and Refugees and Displaced Persons, A/51/18 (1996) 126.

The Committee on the Elimination of Racial Discrimination,

Conscious of the fact that foreign military, non-military and/or ethnic conflicts have resulted in massive flows of refugees and the displacement of persons on the basis of ethnic criteria in many parts of the world,

Considering that the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Racial Discrimination proclaim that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour, descent or national or ethnic origin,

Recalling the 1951 Convention and the 1967 Protocol relating to the status of refugees as the main source of the international system for the protection of refugees in general,

1. Draws the attention of States Parties to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination as well as Committee's General Recommendation XX (48) on article 5, and reiterates that the Convention obliges States Parties to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights and freedoms,

2. Emphasizes in this respect that:

(a) All such refugees and displaced persons have the right freely to return to their homes of origin under conditions of safety;

(b) States parties are obliged to ensure that the return of such refugees and displaced persons is voluntary and to observe the principle of non-refoulement and non-expulsion of refugees;

(c) All such refugees and displaced persons have, after their return to their homes of origin, the right to have restored to them property of which they were deprived in the course of the conflict and to be compensated appropriately for any such property that cannot be restored to them. Any commitments or statements relating to such property made under duress are null and void;

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(d) All such refugees and displaced persons have, after their return to their homes of origin, the right to participate fully and equally in public affairs at all levels and to have equal access to public services and to receive rehabilitation assistance.

- CERD General Recommendation XXIV (Fifty-fifth session, 1999): Concerning Article 1 of the Convention, A/54/18 (1999) 103.

1. The Committee stresses that, according to the definition given in article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention relates to all persons who belong to different races, national or ethnic groups or to indigenous peoples. If the Committee is to secure the proper consideration of the periodic reports of States parties, it is essential that States parties provide as far as possible the Committee with information on the presence within their territory of such groups.

2. It appears from the periodic reports submitted to the Committee under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, and from other information received by the Committee, that a number of States parties recognize the presence on their territory of some national or ethnic groups or indigenous peoples, while disregarding others. Certain criteria should be uniformly applied to all groups, in particular the number of persons concerned, and their being of a race, colour, descent or national or ethnic origin different from the majority or from other groups within the population.

3. Some States parties fail to collect data on the ethnic or national origin of their citizens or of other persons living on their territory, but decide at their own discretion which groups constitute ethnic groups or indigenous peoples that are to be recognized and treated as such. The Committee believes that there is an international standard concerning the specific rights of people belonging to such groups, together with generally recognized norms concerning equal rights for all and non-discrimination, including those incorporated in the International Convention on the Elimination of All Forms of Racial Discrimination. At the same time, the Committee draws to the attention of States parties that the application of different criteria in order to determine ethnic groups or indigenous peoples, leading to the recognition of some and refusal to recognize others, may give rise to differing treatment for various groups within a country's population.

4. The Committee recalls general recommendation IV, which it adopted at its eighth session in 1973, and paragraph 8 of the general guidelines regarding the form and contents of reports to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/70/Rev.3), inviting States parties to endeavour to include in their periodic reports relevant information on the demographic composition of their population,



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in the light of the provisions of article 1 of the Convention, that is, as appropriate, information on race, colour, descent and national or ethnic origin.

- CERD General Recommendation XXV (Fifty-sixth session, 2000): Gender-Related Dimensions of Racial Discrimination, A/55/18 (2000) 152.

1. The Committee notes that racial discrimination does not always affect women and men equally or in the same way. There are circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men. Such racial discrimination will often escape detection if there is no explicit recognition or acknowledgement of the different life experiences of women and men, in areas of both public and private life.

2. Certain forms of racial discrimination may be directed towards women specifically because of their gender, such as sexual violence committed against women members of particular racial or ethnic groups in detention or during armed conflict; the coerced sterilization of indigenous women; abuse of women workers in the informal sector or domestic workers employed abroad by their employers. Racial discrimination may have consequences that affect primarily or only women, such as pregnancy resulting from racial bias-motivated rape; in some societies women victims of such rape may also be ostracized. Women may also be further hindered by a lack of access to remedies and complaint mechanisms for racial discrimination because of gender-related impediments, such as gender bias in the legal system and discrimination against women in private spheres of life.

3. Recognizing that some forms of racial discrimination have a unique and specific impact on women, the Committee will endeavour in its work to take into account gender factors or issues which may be interlinked with racial discrimination. The Committee believes that its practices in this regard would benefit from developing, in conjunction with the States parties, a more systematic and consistent approach to evaluating and monitoring racial discrimination against women, as well as the disadvantages, obstacles and difficulties women face in the full exercise and enjoyment of their civil, political, economic, social and cultural rights on grounds of race, colour, descent, or national or ethnic origin.

4. Accordingly, the Committee, when examining forms of racial discrimination, intends to enhance its efforts to integrate gender perspectives, incorporate gender analysis, and encourage the use of gender-inclusive language in its sessional working methods, including its review of reports submitted by States parties, concluding observations, early warning mechanisms and urgent action procedures, and general recommendations.

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5. As part of the methodology for fully taking into account the gender-related dimensions of racial discrimination, the Committee will include in its sessional working methods an analysis of the relationship between gender and racial discrimination, by giving particular consideration to:

- (a) The form and manifestation of racial discrimination;
- (b) The circumstances in which racial discrimination occurs;
- (c) The consequences of racial discrimination; and
- (d) The availability and accessibility of remedies and complaint mechanisms for racial discrimination.

6. Noting that reports submitted by States parties often do not contain specific or sufficient information on the implementation of the Convention with respect to women, States parties are requested to describe, as far as possible in quantitative and qualitative terms, factors affecting and difficulties experienced in ensuring the equal enjoyment by women, free from racial discrimination, of rights under the Convention. Data which have been categorized by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

- CERD General Recommendation XXVI (Fifty-sixth session, 2000): Article 6 of the Convention, A/55/18 (2000) 153.

1. The Committee on the Elimination of Racial Discrimination believes that the degree to which acts of racial discrimination and racial insults damage the injured party's perception of his/her own worth and reputation is often underestimated.

2. The Committee notifies States parties that, in its opinion, the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination, which is embodied in article 6 of the Convention, is not necessarily secured solely by the punishment of the perpetrator of the discrimination; at the same time, the courts and other competent authorities should consider awarding financial compensation for damage, material or moral, suffered by a victim, whenever appropriate.

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- CERD General Recommendation XXVII (Fifty-seventh session, 2000): Discrimination Against Roma, A/55/18 (2000) 154 at paras. 1-45 and 47.

The Committee on the Elimination of Racial Discrimination,

Having in mind the submissions from States parties to the International Convention for the Elimination of All Forms of Racial Discrimination, their periodic reports submitted under article 9 of the Convention, as well as the concluding observations adopted by the Committee in connection with the consideration of States parties' periodic reports,

Having organized a thematic discussion on the issue of discrimination against Roma and received the contributions of members of the Committee, as well as contributions by experts from United Nations bodies and other treaty bodies and from regional organizations,

Having also received the contributions of interested non-governmental organizations, both orally during the informal meeting organized with them and through written information,

Taking into account the provisions of the Convention,

Recommends that the States parties to the Convention, taking into account their specific situations, adopt for the benefit of members of the Roma communities, *inter alia*, all or part of the following measures, as appropriate.

1. Measures of a general nature

1. To review and enact or amend legislation, as appropriate, in order to eliminate all forms of racial discrimination against Roma as against other persons or groups, in accordance with the Convention.

2. To adopt and implement national strategies and programmes and express determined political will and moral leadership, with a view to improving the situation of Roma and their protection against discrimination by State bodies, as well as by any person or organization.

3. To respect the wishes of Roma as to the designation they want to be given and the group to which they want to belong.

4. To ensure that legislation regarding citizenship and naturalization does not discriminate against members of Roma communities.

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5. To take all necessary measures in order to avoid any form of discrimination against immigrants or asylum-seekers of Roma origin.
6. To take into account, in all programmes and projects planned and implemented and in all measures adopted, the situation of Roma women, who are often victims of double discrimination.
7. To take appropriate measures to secure for members of Roma communities effective remedies and to ensure that justice is fully and promptly done in cases concerning violations of their fundamental rights and freedoms.
8. To develop and encourage appropriate modalities of communication and dialogue between Roma communities and central and local authorities.
9. To endeavour, by encouraging a genuine dialogue, consultations or other appropriate means, to improve the relations between Roma communities and non-Roma communities, in particular at local levels, with a view to promoting tolerance and overcoming prejudices and negative stereotypes on both sides, to promoting efforts for adjustment and adaptation and to avoiding discrimination and ensuring that all persons fully enjoy their human rights and freedoms.
10. To acknowledge wrongs done during the Second World War to Roma communities by deportation and extermination and consider ways of compensating for them.
11. To take the necessary measures, in cooperation with civil society, and initiate projects to develop the political culture and educate the population as a whole in a spirit of non-discrimination, respect for others and tolerance, in particular concerning Roma.

### 2. Measures for protection against racial violence

12. To ensure protection of the security and integrity of Roma, without any discrimination, by adopting measures for preventing racially motivated acts of violence against them; to ensure prompt action by the police, the prosecutors and the judiciary for investigating and punishing such acts; and to ensure that perpetrators, be they public officials or other persons, do not enjoy any degree of impunity.
13. To take measures to prevent the use of illegal force by the police against Roma, in particular in connection with arrest and detention.
14. To encourage appropriate arrangements for communication and dialogue between the police and Roma communities and associations, with a view to preventing conflicts based on racial prejudice and combating acts of racially motivated violence against

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members of these communities, as well as against other persons.

15. To encourage recruitment of members of Roma communities into the police and other law enforcement agencies.

16. To promote action in post-conflict areas, by States parties and from other responsible States or authorities in order to prevent violence against and forced displacement of members of the Roma communities.

### 3. Measures in the field of education

17. To support the inclusion in the school system of all children of Roma origin and to act to reduce drop-out rates, in particular among Roma girls, and, for these purposes, to cooperate actively with Roma parents, associations and local communities.

18. To prevent and avoid as much as possible the segregation of Roma students, while keeping open the possibility for bilingual or mother-tongue tuition; to this end, to endeavour to raise the quality of education in all schools and the level of achievement in schools by the minority community, to recruit school personnel from among members of Roma communities and to promote intercultural education.

19. To consider adopting measures in favour of Roma children, in cooperation with their parents, in the field of education.

20. To act with determination to eliminate any discrimination or racial harassment of Roma students.

21. To take the necessary measures to ensure a process of basic education for Roma children of travelling communities, including by admitting them temporarily to local schools, by temporary classes in their places of encampment, or by using new technologies for distance education.

22. To ensure that their programmes, projects and campaigns in the field of education take into account the disadvantaged situation of Roma girls and women.

23. To take urgent and sustained measures in training teachers, educators and assistants from among Roma students.

24. To act to improve dialogue and communication between the teaching personnel and Roma children, Roma communities and parents, using more often assistants chosen from among the Roma.

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25. To ensure adequate forms and schemes of education for members of Roma communities beyond school age, in order to improve adult literacy among them.

26. To include in textbooks, at all appropriate levels, chapters about the history and culture of Roma, and encourage and support the publication and distribution of books and other print materials as well as the broadcasting of television and radio programmes, as appropriate, about their history and culture, including in languages spoken by them.

### **4. Measures to improve living conditions**

27. To adopt or make more effective legislation prohibiting discrimination in employment and all discriminatory practices in the labour market affecting members of Roma communities, and to protect them against such practices.

28. To take special measures to promote the employment of Roma in the public administration and institutions, as well as in private companies.

29. To adopt and implement, whenever possible, at the central or local level, special measures in favour of Roma in public employment such as public contracting and other activities undertaken or funded by the Government, or training Roma in various skills and professions.

30. To develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing; to involve Roma communities and associations as partners together with other persons in housing project construction, rehabilitation and maintenance.

31. To act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.

32. To take the necessary measures, as appropriate, for offering Roma nomadic groups or Travellers camping places for their caravans, with all necessary facilities.

33. To ensure Roma equal access to health care and social security services and to eliminate any discriminatory practices against them in this field.

34. To initiate and implement programmes and projects in the field of health for Roma, mainly women and children, having in mind their disadvantaged situation due to extreme poverty and low level of education, as well as to cultural differences; to involve Roma

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associations and communities and their representatives, mainly women, in designing and implementing health programmes and projects concerning Roma groups.

35. To prevent, eliminate and adequately punish any discriminatory practices concerning the access of members of the Roma communities to all places and services intended for the use of the general public, including restaurants, hotels, theatres and music halls, discotheques and others.

### 5. Measures in the field of the media

36. To act as appropriate for the elimination of any ideas of racial or ethnic superiority, of racial hatred and incitement to discrimination and violence against Roma in the media, in accordance with the provisions of the Convention.

37. To encourage awareness among professionals of all media of the particular responsibility to not disseminate prejudices and to avoid reporting incidents involving individual members of Roma communities in a way which blames such communities as a whole.

38. To develop educational and media campaigns to educate the public about Roma life, society and culture and the importance of building an inclusive society while respecting the human rights and the identity of the Roma.

39. To encourage and facilitate access by Roma to the media, including newspapers and television and radio programmes, the establishment of their own media, as well as the training of Roma journalists.

40. To encourage methods of self-monitoring by the media, through a code of conduct for media organizations, in order to avoid racial, discriminatory or biased language.

### 6. Measures concerning participation in public life

41. To take the necessary steps, including special measures, to secure equal opportunities for the participation of Roma minorities or groups in all central and local governmental bodies.

42. To develop modalities and structures of consultation with Roma political parties, associations and representatives, both at central and local levels, when considering issues and adopting decisions on matters of concern to Roma communities.

43. To involve Roma communities and associations and their representatives at the earliest stages in the development and implementation of policies and programmes

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affecting them and to ensure sufficient transparency about such policies and programmes.

44. To promote more awareness among members of Roma communities of the need for their more active participation in public and social life and in promoting their own interests, for instance the education of their children and their participation in professional training.

45. To organize training programmes for Roma public officials and representatives, as well as for prospective candidates to such responsibilities, aimed at improving their political, policy-making and public administration skills.

...

47. Intergovernmental organizations, in their projects of cooperation and assistance to the various States parties, as appropriate, address the situation of Roma communities and favour their economic, social and cultural advancement.

- CERD General Recommendation XXVIII (Sixtieth session, 2002): On the Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, A/57/18 (2002) 109 at paras. 1-3.

### The Committee on the Elimination of Racial Discrimination,

Welcoming the adoption of the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the provisions of General Assembly resolution 56/266 which endorse or are designed to ensure the follow-up of those instruments,

Welcoming the fact that the instruments adopted at Durban strongly reaffirm all the fundamental values and standards of the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling that the Durban Declaration and Programme of Action refer to the International Convention on the Elimination of All Forms of Racial Discrimination as the principal instrument to combat racism, racial discrimination, xenophobia and related intolerance,

Noting in particular the affirmation in the Durban Declaration that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for promoting equality and non-discrimination in the world,

Expressing its satisfaction at the recognition of the role and contribution of the Committee to the struggle against racial discrimination,



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Conscious of its own responsibilities in the follow-up to the World Conference and of the need to strengthen its capacity to undertake these responsibilities,

Stressing the vital role of non-governmental organizations in the struggle against racial discrimination and welcoming their contribution during the World Conference,

Taking note of the recognition by the World Conference of the important role that national human rights institutions play in combating racism and racial discrimination, and of the need to strengthen such institutions and provide them with greater resources,

1. Recommends to States:

I. Measures to strengthen the implementation of the Convention

(a) If they have not yet done so, to accede to the International Convention on the Elimination of All Forms of Racial Discrimination with a view to universal ratification by the year 2005;

(b) If they have not yet done so, to consider making the optional declaration envisaged under article 14 of the Convention;

(c) To comply with their reporting obligations under the Convention by presenting reports in a timely manner in conformity with the relevant guidelines;

(d) To consider withdrawing their reservations to the Convention;

(e) To make increased efforts to inform the public of the existence of the complaints mechanism under article 14 of the Convention;

(f) To take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention;

(g) To include in their periodic reports information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at the national level;

(h) To disseminate the Durban Declaration and Programme of Action in an appropriate manner and provide the Committee with information on the efforts in this respect under the section of their periodic reports concerning article 7 of the Convention;

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### **II. Measures to strengthen the functioning of the Committee**

- (i) To consider setting up appropriate national monitoring and evaluation mechanisms to ensure that all appropriate steps are taken to follow-up the concluding observations and general recommendations of the Committee;
- (j) To include in their periodic reports to the Committee appropriate information on the follow-up to such concluding observations and recommendations;
- (k) To ratify the amendment to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 15 December 1992;
- (l) To continue cooperating with the Committee with a view to promoting the effective implementation of the Convention;

### **2. Also recommends:**

- (a) That national human rights institutions assist their respective States to comply with their reporting obligations and closely monitor the follow-up to the concluding observations and recommendations of the Committee;
- (b) That non-governmental organizations continue to provide the Committee in good time with relevant information in order to enhance its cooperation with them;
- (c) That the Office of the High Commissioner for Human Rights continue its efforts to increase awareness of the work of the Committee;
- (d) That the competent United Nations bodies provide the Committee with adequate resources to enable it to discharge its mandate fully;

### **3. Expresses its willingness:**

- (a) To cooperate fully with all relevant institutions of the United Nations system, in particular the Office of the High Commissioner for Human Rights, in following up the Durban Declaration and Programme of Action;
- (b) To cooperate with the five independent eminent experts to be appointed by the Secretary-General to facilitate the implementation of the recommendations of the Durban Declaration and Programme of Action;

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(c) To coordinate its activities with the other human rights treaty bodies with a view to achieving a more effective follow-up of the Durban Declaration and Programme of Action;

(d) To take into consideration all aspects of the Durban Declaration and Programme of Action concerning the fulfilment of its mandate.

- CERD General Recommendation XXIX (Sixty-first session, 2002): On Article 1, Paragraph 1, of the Convention (Descent), A/57/18 (2002) 111 at paras. 1-8.

### The Committee on the Elimination of Racial Discrimination,

Recalling the terms of the Universal Declaration of Human Rights according to which all human beings are born free and equal in dignity and rights and are entitled to the rights and freedoms therein without distinction of any kind, including race, colour, sex, language, religion, social origin, birth or other status,

Recalling also the terms of the Vienna Declaration and Programme of Action of the World Conference on Human Rights according to which it is the duty of States, regardless of political, economic and cultural system, to promote and protect all human rights and fundamental freedoms,

Reaffirming its general recommendation XXVIII in which the Committee expresses wholehearted support for the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Reaffirming also the condemnation of discrimination against persons of Asian and African descent and indigenous and other forms of descent in the Durban Declaration and Programme of Action,

Basing its action on the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination which seeks to eliminate discrimination based on race, colour, descent, or national or ethnic origin,

Confirming the consistent view of the Committee that the term “descent” in article 1, paragraph 1, the Convention does not solely refer to “race” and has a meaning and application which complement the other prohibited grounds of discrimination,

Strongly reaffirming that discrimination based on “descent” includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of

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human rights,

Noting that the existence of such discrimination has become evident from the Committee's examination of reports of a number of States parties to the Convention,

Having organized a thematic discussion on descent-based discrimination and received the contributions of members of the Committee, as well as contributions from some Governments and members of other United Nations bodies, notably experts of the Sub-Commission for the Promotion and Protection of Human Rights,

Having received contributions from a great number of concerned non-governmental organizations and individuals, orally and through written information, providing the Committee with further evidence of the extent and persistence of descent-based discrimination in different regions of the world,

Concluding that fresh efforts need to be made as well as existing efforts intensified at the level of domestic law and practice to eliminate the scourge of descent-based discrimination and empower communities affected by it,

Commending the efforts of those States that have taken measures to eliminate descent-based discrimination and remedy its consequences,

Strongly encouraging those affected States that have yet to recognize and address this phenomenon to take steps to do so,

Recalling the positive spirit in which the dialogues between the Committee and Governments have been conducted on the question of descent-based discrimination and anticipating further such constructive dialogues,

Attaching the highest importance to its ongoing work in combating all forms of descent-based discrimination,

Strongly condemning descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention,

Recommends that the States parties, as appropriate for their particular circumstances, adopt some or all of the following measures:

1. Measures of a general nature

(a) Steps to identify those descent-based communities under their jurisdiction who suffer from discrimination, especially on the basis of caste and analogous systems of inherited status, and whose existence may be recognized on the basis of various factors

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including some or all of the following: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading or hazardous work; subjection to debt bondage; subjection to dehumanizing discourses referring to pollution or untouchability; and generalized lack of respect for their human dignity and equality;

(b) Consider the incorporation of an explicit prohibition of descent-based discrimination in the national constitution;

(c) Review and enact or amend legislation in order to outlaw all forms of discrimination based on descent in accordance with the Convention;

(d) Resolutely implement legislation and other measures already in force;

(e) Formulate and put into action a comprehensive national strategy with the participation of members of affected communities, including special measures in accordance with articles 1 and 2 of the Convention, in order to eliminate discrimination against members of descent-based groups;

(f) Adopt special measures in favour of descent-based groups and communities in order to ensure their enjoyment of human rights and fundamental freedoms, in particular concerning access to public functions, employment and education;

(g) Establish statutory mechanisms, through the strengthening of existing institutions or the creation of specialized institutions, to promote respect for the equal human rights of members of descent-based communities;

(h) Educate the general public on the importance of affirmative action programmes to address the situation of victims of descent-based discrimination;

(i) Encourage dialogue between members of descent-based communities and members of other social groups;

(j) Conduct periodic surveys on the reality of descent-based discrimination and provide disaggregated information in their reports to the Committee on the geographical distribution and economic and social conditions of descent-based communities, including a gender perspective;

### **2. Multiple discrimination against women members of descent-based communities**

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(k) Take into account, in all programmes and projects planned and implemented and in measures adopted, the situation of women members of the communities, as victims of multiple discrimination, sexual exploitation and forced prostitution;

(l) Take all measures necessary in order to eliminate multiple discrimination including descent-based discrimination against women, particularly in the areas of personal security, employment and education;

(m) Provide disaggregated data for the situation of women affected by descent-based discrimination;

### **3. Segregation**

(n) Monitor and report on trends which give rise to the segregation of descent-based communities and work for the eradication of the negative consequences resulting from such segregation;

(o) Undertake to prevent, prohibit and eliminate practices of segregation directed against members of descent-based communities including in housing, education and employment;

(p) Secure for everyone the right of access on an equal and non-discriminatory basis to any place or service intended for use by the general public;

(q) Take steps to promote mixed communities in which members of affected communities are integrated with other elements of society and ensure that services to such settlements are accessible on an equal basis for all;

### **4. Dissemination of hate speech including through the mass media and the Internet**

(r) Take measures against any dissemination of ideas of caste superiority and inferiority or which attempt to justify violence, hatred or discrimination against descent-based communities;

(s) Take strict measures against any incitement to discrimination or violence against the communities, including through the Internet;

(t) Take measures to raise awareness among media professionals of the nature and incidence of descent-based discrimination;

### **5. Administration of justice**

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- (u) Take the necessary steps to secure equal access to the justice system for all members of descent-based communities, including by providing legal aid, facilitating of group claims and encouraging non-governmental organizations to defend community rights;
- (v) Ensure, where relevant, that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account;
- (w) Ensure the prosecution of persons who commit crimes against members of descent-based communities and the provision of adequate compensation for the victims of such crimes;
- (x) Encourage the recruitment of members of descent-based communities into the police and other law enforcement agencies;
- (y) Organize training programmes for public officials and law enforcement agencies with a view to preventing injustices based on prejudice against descent-based communities;
- (z) Encourage and facilitate constructive dialogue between the police and other law enforcement agencies and members of the communities;

### 6. Civil and political rights

- (aa) Ensure that authorities at all levels in the country concerned involve members of descent-based communities in decisions which affect them;
- (bb) Take special and concrete measures to guarantee to members of descent-based communities the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage, and to have due representation in Government and legislative bodies;
- (cc) Promote awareness among members of the communities of the importance of their active participation in public and political life, and eliminate obstacles to such participation;
- (dd) Organize training programmes to improve the political policy-making and public administration skills of public officials and political representatives who belong to descent-based communities;
- (ee) Take steps to identify areas prone to descent-based violence in order to prevent the

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recurrence of such violence;

(ff) Take resolute measures to secure rights of marriage for members of descent-based communities who wish to marry outside the community;

### **7. Economic and social rights**

(gg) Elaborate, adopt and implement plans and programmes of economic and social development on an equal and non-discriminatory basis;

(hh) Take substantial and effective measures to eradicate poverty among descent-based communities and combat their social exclusion or marginalization;

(ii) Work with intergovernmental organizations, including international financial institutions, to ensure that development or assistance projects which they support take into account the economic and social situation of members of descent-based communities;

(jj) Take special measures to promote the employment of members of affected communities in the public and private sectors;

(kk) Develop or refine legislation and practice specifically prohibiting all discriminatory practices based on descent in employment and the labour market;

(ll) Take measures against public bodies, private companies and other associations that investigate the descent background of applicants for employment;

(mm) Take measures against discriminatory practices of local authorities or private owners with regard to residence and access to adequate housing for members of affected communities;

(nn) Ensure equal access to health care and social security services for members of descent-based communities;

(oo) Involve affected communities in designing and implementing health programmes and projects;

(pp) Take measures to address the special vulnerability of children of descent-based communities to exploitative child labour;

(qq) Take resolute measures to eliminate debt bondage and degrading conditions of labour associated with descent-based discrimination;



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### 8. Right to education

(rr) Ensure that public and private education systems include children of all communities and do not exclude any children on the basis of descent;

(ss) Reduce school drop-out rates for children of all communities, in particular for children of affected communities, with special attention to the situation of girls;

(tt) Combat discrimination by public or private bodies and any harassment of students who are members of descent-based communities;

(uu) Take necessary measures in cooperation with civil society to educate the population as a whole in a spirit of non-discrimination and respect for the communities subject to descent-based discrimination;

(vv) Review all language in textbooks which conveys stereotyped or demeaning images, references, names or opinions concerning descent-based communities and replace it by images, references, names and opinions which convey the message of the inherent dignity of all human beings and their equality of human rights.

- CERD General Recommendation XXX (Sixty-fifth session, 2004): Discrimination Against Non-Citizens, A/59/18 (2004) 93 at preamble and paras. 1-39.

*The Committee on the Elimination of Racial Discrimination,*

*Recalling* the Charter of the United Nations and the Universal Declaration of Human Rights, according to which all human beings are born free and equal in dignity and rights and are entitled to the rights and freedoms enshrined therein without distinction of any kind, and the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

*Recalling* the Durban Declaration in which the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, recognized that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices,

*Noting* that, based on the International Convention on the Elimination of All Forms of

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Racial Discrimination and general recommendations XI and XX, it has become evident from the examination of the reports of States parties to the Convention that groups other than migrants, refugees and asylum-seekers are also of concern, including undocumented non-citizens and persons who cannot establish the nationality of the State on whose territory they live, even where such persons have lived all their lives on the same territory,

*Having organized* a thematic discussion on the issue of discrimination against non-citizens and received the contributions of members of the Committee and States parties, as well as contributions from experts of other United Nations organs and specialized agencies and from non-governmental organizations,

*Recognizing* the need to clarify the responsibilities of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination with regard to non-citizens,

*Basing* its action on the provisions of the Convention, in particular article 5, which requires States parties to prohibit and eliminate discrimination based on race, colour, descent, and national or ethnic origin in the enjoyment by all persons of civil, political, economic, social and cultural rights and freedoms,

*Affirms* that:

### *I. Responsibilities of States parties to the Convention*

1. Article 1, paragraph 1, of the Convention defines racial discrimination. Article 1, paragraph 2 provides for the possibility of differentiating between citizens and non-citizens. Article 1, paragraph 3 declares that, concerning nationality, citizenship or naturalization, the legal provisions of States parties must not discriminate against any particular nationality;

2. Article 1, paragraph 2, must be construed so as to avoid undermining the basic prohibition of discrimination; hence, it should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

3. Article 5 of the Convention incorporates the obligation of States parties to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights. Although some of these rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons. States parties are under an obligation to

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guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law;

4. Under the Convention, differential treatment based on citizenship or immigration status will 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 this aim. Differentiation within the scope of article 1, paragraph 4, of the Convention relating to special measures is not considered discriminatory;

5. States parties are under an obligation to report fully upon legislation on non-citizens and its implementation. Furthermore, States parties should include in their periodic reports, in an appropriate form, socio-economic data on the non-citizen population within their jurisdiction, including data disaggregated by gender and national or ethnic origin;

*Recommends,*

Based on these general principles, that the States parties to the Convention, as appropriate to their specific circumstances, adopt the following measures:

### *II. Measures of a general nature*

6. Review and revise legislation, as appropriate, in order to guarantee that such legislation is in full compliance with the Convention, in particular regarding the effective enjoyment of the rights mentioned in article 5, without discrimination;

7. Ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status, and that the implementation of legislation does not have a discriminatory effect on non-citizens;

8. Pay greater attention to the issue of multiple discrimination faced by non-citizens, in particular concerning the children and spouses of non-citizen workers, to refrain from applying different standards of treatment to female non-citizen spouses of citizens and male non-citizen spouses of citizens, to report on any such practices and to take all necessary steps to address them;

9. Ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin;

10. Ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping;

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### *III. Protection against hate speech and racial violence*

11. Take steps to address xenophobic attitudes and behaviour towards non-citizens, in particular hate speech and racial violence, and to promote a better understanding of the principle of non-discrimination in respect of the situation of non-citizens;

12. Take resolute action to counter any tendency to target, stigmatize, stereotype or profile, on the basis of race, colour, descent, and national or ethnic origin, members of “non-citizen” population groups, especially by politicians, officials, educators and the media, on the Internet and other electronic communications networks and in society at large;

### *IV. Access to citizenship*

13. Ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship or naturalization, and to pay due attention to possible barriers to naturalization that may exist for long-term or permanent residents;

14. Recognize that deprivation of citizenship on the basis of race, colour, descent, or national or ethnic origin is a breach of States parties’ obligations to ensure non-discriminatory enjoyment of the right to nationality;

15. Take into consideration that in some cases denial of citizenship for long-term or permanent residents could result in creating disadvantage for them in access to employment and social benefits, in violation of the Convention’s anti-discrimination principles;

16. Reduce statelessness, in particular statelessness among children, by, for example, encouraging their parents to apply for citizenship on their behalf and allowing both parents to transmit their citizenship to their children;

17. Regularize the status of former citizens of predecessor States who now reside within the jurisdiction of the State party;

### *V. Administration of justice*

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

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19. Ensure the security of non-citizens, in particular with regard to arbitrary detention, as well as ensure that conditions in centres for refugees and asylum-seekers meet international standards;
20. Ensure that non-citizens detained or arrested in the fight against terrorism are properly protected by domestic law that complies with international human rights, refugee and humanitarian law;
21. Combat ill-treatment of and discrimination against non-citizens by police and other law enforcement agencies and civil servants by strictly applying relevant legislation and regulations providing for sanctions and by ensuring that all officials dealing with non-citizens receive special training, including training in human rights;
22. Introduce in criminal law the provision that committing an offence with racist motivation or aim constitutes an aggravating circumstance allowing for a more severe punishment;
23. Ensure that claims of racial discrimination brought by non-citizens are investigated thoroughly and that claims made against officials, notably those concerning discriminatory or racist behaviour, are subject to independent and effective scrutiny;
24. Regulate the burden of proof in civil proceedings involving discrimination based on race, colour, descent, and national or ethnic origin so that once a non-citizen has established a *prima facie* case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment;

### *VI. Expulsion and deportation of non-citizens*

25. Ensure that laws concerning deportation or other forms of removal of non-citizens from the jurisdiction of the State party do not discriminate in purpose or effect among non-citizens on the basis of race, colour or ethnic or national origin, and that non-citizens have equal access to effective remedies, including the right to challenge expulsion orders, and are allowed effectively to pursue such remedies;
26. Ensure that non-citizens are not subject to collective expulsion, in particular in situations where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account;
27. Ensure that non-citizens are not returned or removed to a country or territory where they are at risk of being subject to serious human rights abuses, including torture and cruel, inhuman or degrading treatment or punishment;

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28. Avoid expulsions of non-citizens, especially of long-term residents, that would result in disproportionate interference with the right to family life;

### *VII. Economic, social and cultural rights*

29. Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health;

30. Ensure that public educational institutions are open to non-citizens and children of undocumented immigrants residing in the territory of a State party;

31. Avoid segregated schooling and different standards of treatment being applied to non-citizens on grounds of race, colour, descent, and national or ethnic origin in elementary and secondary school and with respect to access to higher education;

32. Guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices;

33. Take measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects;

34. Take effective measures to prevent and redress the serious problems commonly faced by non-citizen workers, in particular by non-citizen domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault;

35. Recognize that, while States parties may refuse to offer jobs to non-citizens without a work permit, all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated;

36. Ensure that States parties respect the right of non-citizens to an adequate standard of physical and mental health by, *inter alia*, refraining from denying or limiting their access to preventive, curative and palliative health services;

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

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38. Ensure the right of non-citizens, without discrimination based on race, colour, descent, and national or ethnic origin, to have access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks;

39. The present general recommendation replaces general recommendation XI (1993).

- CERD General recommendation XXXI (Sixty-seventh session, 2005): The Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, A/60/18 (2005) 98 at preamble and paras. 1-41.

*The Committee on the Elimination of Racial Discrimination,*

*Recalling* the definition of racial discrimination set out in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination,

*Recalling* the provisions of article 5 (a) of the Convention, under which States parties have an obligation to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice,

*Recalling* that article 6 of the Convention requires States parties to assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination,

*Referring* to paragraph 25 of the declaration adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001, which expressed “profound repudiation of the racism, racial discrimination, xenophobia and related intolerance that persist in some States in the functioning of the penal system and in the application of the law, as well as in the actions and attitudes of institutions and individuals responsible for law enforcement, especially where this has contributed to certain groups being overrepresented among persons under detention or imprisoned”,

*Referring* to the work of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights (see E/CN.4/Sub.2/2005/7) concerning discrimination in the criminal justice system,

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*Bearing in mind* the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance,

*Referring* to the 1951 Convention relating to the Status of Refugees, in particular article 16, which stipulates that “[a] refugee shall have free access to the courts of law on the territory of all Contracting States”,

*Bearing in mind* the observations relating to the functioning of the system of justice made in the Committee’s conclusions concerning reports submitted by States parties and in general recommendations XXVII (2000) on discrimination against Roma, XXIX (2002) on discrimination based on descent and XXX (2004) on discrimination against non-citizens,

*Convinced* that, even though the system of justice may be regarded as impartial and not affected by racism, racial discrimination or xenophobia, when racial or ethnic discrimination does exist in the administration and functioning of the system of justice, it constitutes a particularly serious violation of the rule of law, the principle of equality before the law, the principle of fair trial and the right to an independent and impartial tribunal, through its direct effect on persons belonging to groups which it is the very role of justice to protect,

*Considering* that no country is free from racial discrimination in the administration and functioning of the criminal justice system, regardless of the type of law applied or the judicial system in force, whether accusatorial, inquisitorial or mixed,

*Considering* that the risks of discrimination in the administration and functioning of the criminal justice system have increased in recent years, partly as a result of the rise in immigration and population movements, which have prompted prejudice and feelings of xenophobia or intolerance among certain sections of the population and certain law enforcement officials, and partly as a result of the security policies and anti-terrorism measures adopted by many States, which among other things have encouraged the emergence of anti-Arab or anti-Muslim feelings, or, as a reaction, anti-Semitic feelings, in a number of countries,

*Determined* to combat all forms of discrimination in the administration and functioning of the criminal justice system which may be suffered, in all countries of the world, by persons belonging to racial or ethnic groups, in particular non-citizens - including immigrants, refugees, asylum-seekers and stateless persons - Roma/Gypsies, indigenous peoples, displaced populations, persons discriminated against because of their descent, as well as other vulnerable groups which are particularly exposed to exclusion, marginalization and non-integration in society, paying particular attention to the situation of women and children belonging to the aforementioned groups, who are susceptible to multiple discrimination because of their race and because of their sex or their age,



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*Formulates* the following recommendations addressed to States parties:

### *I. General steps*

*A. Steps to be taken in order to better gauge the existence and extent of racial discrimination in the administration and functioning of the criminal justice system; the search for indicators attesting to such discrimination*

#### *1. Factual indicators*

1. States parties should pay the greatest attention to the following possible indicators of racial discrimination:

(a) The number and percentage of persons belonging to the groups referred to in the last paragraph of the preamble who are victims of aggression or other offences, especially when they are committed by police officers or other State officials;

(b) The absence or small number of complaints, prosecutions and convictions relating to acts of racial discrimination in the country. Such a statistic should not be viewed as necessarily positive, contrary to the belief of some States. It may also reveal either that victims have inadequate information concerning their rights, or that they fear social censure or reprisals, or that victims with limited resources fear the cost and complexity of the judicial process, or that there is a lack of trust in the police and judicial authorities, or that the authorities are insufficiently alert to or aware of offences involving racism;

(c) Insufficient or no information on the behaviour of law enforcement personnel *vis-à-vis* persons belonging to the groups referred to in the last paragraph of the preamble;

(d) The proportionately higher crime rates attributed to persons belonging to those groups, particularly as regards petty street crime and offences related to drugs and prostitution, as indicators of the exclusion or the non-integration of such persons into society;

(e) The number and percentage of persons belonging to those groups who are held in prison or preventive detention, including internment centres, penal establishments, psychiatric establishments or holding areas in airports;

(f) The handing down by the courts of harsher or inappropriate sentences against persons belonging to those groups;

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(g) The insufficient representation of persons belonging to those groups among the ranks of the police, in the system of justice, including judges and jurors, and in other law enforcement departments.

2. In order for these factual indicators to be well known and used, States parties should embark on regular and public collection of information from police, judicial and prison authorities and immigration services, while respecting standards of confidentiality, anonymity and protection of personal data.

3. In particular, States parties should have access to comprehensive statistical or other information on complaints, prosecutions and convictions relating to acts of racism and xenophobia, as well as on compensation awarded to the victims of such acts, whether such compensation is paid by the perpetrators of the offences or under State compensation plans financed from public funds.

### *2. Legislative indicators*

4. The following should be regarded as indicators of potential causes of racial discrimination:

(a) Any gaps in domestic legislation on racial discrimination. In this regard, States parties should fully comply with the requirements of article 4 of the Convention and criminalize all acts of racism as provided by that article, in particular the dissemination of ideas based on racial superiority or hatred, incitement to racial hatred, violence or incitement to racial violence, but also racist propaganda activities and participation in racist organizations. States parties are also encouraged to incorporate a provision in their criminal legislation to the effect that committing offences for racial reasons generally constitutes an aggravating circumstance;

(b) The potential indirect discriminatory effects of certain domestic legislation, particularly legislation on terrorism, immigration, nationality, banning or deportation of non-citizens from a country, as well as legislation that has the effect of penalizing without legitimate grounds certain groups or membership of certain communities. States should seek to eliminate the discriminatory effects of such legislation and in any case to respect the principle of proportionality in its application to persons belonging to the groups referred to in the last paragraph of the preamble.

### *B. Strategies to be developed to prevent racial discrimination in the administration and functioning of the criminal justice system*

5. States parties should pursue national strategies the objectives of which include the following:

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- (a) To eliminate laws that have an impact in terms of racial discrimination, particularly those which target certain groups indirectly by penalizing acts which can be committed only by persons belonging to such groups, or laws that apply only to non-nationals without legitimate grounds or which do not respect the principle of proportionality;
- (b) To develop, through appropriate education programmes, training in respect for human rights, tolerance and friendship among racial or ethnic groups, as well as sensitization to intercultural relations, for law enforcement officials: police personnel, persons working in the system of justice, prison institutions, psychiatric establishments, social and medical services, etc.;
- (c) To foster dialogue and cooperation between the police and judicial authorities and the representatives of the various groups referred to in the last paragraph of the preamble, in order to combat prejudice and create a relationship of trust;
- (d) To promote proper representation of persons belonging to racial and ethnic groups in the police and the system of justice;
- (e) To ensure respect for, and recognition of the traditional systems of justice of indigenous peoples, in conformity with international human rights law;
- (f) To make the necessary changes to the prison regime for prisoners belonging to the groups referred to in the last paragraph of the preamble, so as to take into account their cultural and religious practices;
- (g) To institute, in situations of mass population movements, the interim measures and arrangements necessary for the operation of the justice system in order to take account of the particularly vulnerable situation of displaced persons, in particular by setting up decentralized courts at the places where the displaced persons are staying or by organizing mobile courts;
- (h) To set up, in post-conflict situations, plans for the reconstruction of the legal system and the re-establishment of the rule of law throughout the territory of the countries concerned, by availing themselves, in particular, of the international technical assistance provided by the relevant United Nations entities;
- (i) To implement national strategies or plans of action aimed at the elimination of structural racial discrimination. These long-term strategies should include specific objectives and actions as well as indicators against which progress can be measured. They should include, in particular, guidelines for prevention, recording, investigation and prosecution of racist or xenophobic incidents, assessment of the level of satisfaction

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among all communities concerning their relations with the police and the system of justice, and recruitment and promotion in the judicial system of persons belonging to various racial or ethnic groups;

(j) To entrust an independent national institution with the task of tracking, monitoring and measuring progress made under the national plans of action and guidelines against racial discrimination, identifying undetected manifestations of racial discrimination and submitting recommendations and proposals for improvement.

### *II. Steps to be taken to prevent racial discrimination with regard to victims of racism*

#### *A. Access to the law and to justice*

6. In accordance with article 6 of the Convention, States parties are obliged to guarantee the right of every person within their jurisdiction to an effective remedy against the perpetrators of acts of racial discrimination, without discrimination of any kind, whether such acts are committed by private individuals or State officials, as well as the right to seek just and adequate reparation for the damage suffered.

7. In order to facilitate access to justice for the victims of racism, States parties should strive to supply the requisite legal information to persons belonging to the most vulnerable social groups, who are often unaware of their rights.

8. In that regard, States parties should promote, in the areas where such persons live, institutions such as free legal help and advice centres, legal information centres and centres for conciliation and mediation.

9. States parties should also expand their cooperation with associations of lawyers, university institutions, legal advice centres and non-governmental organizations specializing in protecting the rights of marginalized communities and in the prevention of discrimination.

#### *B. Reporting of incidents to the authorities competent for receiving complaints*

10. States parties should take the necessary steps to ensure that the police services have an adequate and accessible presence in the neighbourhoods, regions, collective facilities, camps or centres where the persons belonging to the groups referred to in the last paragraph of the preamble reside, so that complaints from such persons can be expeditiously received.

11. The competent services should be instructed to receive the victims of acts of racism in police stations in a satisfactory manner, so that complaints are recorded immediately, investigations are pursued without delay and in an effective, independent and impartial

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manner, and files relating to racist or xenophobic incidents are retained and incorporated into databases.

12. Any refusal by a police official to accept a complaint involving an act of racism should lead to disciplinary or penal sanctions, and those sanctions should be increased if corruption is involved.

13. Conversely, it should be the right and duty of any police official or State employee to refuse to obey orders or instructions that require him or her to commit violations of human rights, particularly those based on racial discrimination. States parties should guarantee the freedom of any official to invoke this right without fear of punishment.

14. In cases of allegations of torture, ill-treatment or executions, investigations should be conducted in accordance with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions 1/ and the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 2/

### *C. Initiation of judicial proceedings*

15. States parties should remind public prosecutors and members of the prosecution service of the general importance of prosecuting racist acts, including minor offences committed with racist motives, since any racially motivated offence undermines social cohesion and society as a whole.

16. In advance of the initiation of proceedings, States parties could also encourage, with a view to respecting the rights of the victims, the use of parajudicial procedures for conflict resolution, including customary procedures compatible with human rights, mediation or conciliation, which can serve as useful options for the victims of acts of racism and to which less stigma may be attached.

17. In order to make it easier for the victims of acts of racism to bring actions in the courts, the steps to be taken should include the following:

(a) Offering procedural status for the victims of racism and xenophobia and associations for the protection of the rights of such victims, such as an opportunity to associate themselves with the criminal proceedings, or other similar procedures that might enable them to assert their rights in the criminal proceedings, at no cost to themselves;

(b) Granting victims effective judicial cooperation and legal aid, including the assistance of counsel and an interpreter free of charge;

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- (c) Ensuring that victims have information about the progress of the proceedings;
- (d) Guaranteeing protection for the victim or the victim's family against any form of intimidation or reprisals;
- (e) Providing for the possibility of suspending the functions, for the duration of the investigation, of the agents of the State against whom the complaints were made.

18. In countries where there are assistance and compensation plans for victims, States parties should ensure that such plans are available to all victims without discrimination and regardless of their nationality or residential status.

### *D. Functioning of the system of justice*

19. States parties should ensure that the system of justice:

- (a) Grants a proper place to victims and their families, as well as witnesses, throughout the proceedings, by enabling complainants to be heard by the judges during the examination proceedings and the court hearing, to have access to information, to confront hostile witnesses, to challenge evidence and to be informed of the progress of proceedings;
- (b) Treats the victims of racial discrimination without discrimination or prejudice, while respecting their dignity, through ensuring in particular that hearings, questioning or confrontations are carried out with the necessary sensitivity as far as racism is concerned;
- (c) Guarantees the victim a court judgement within a reasonable period;
- (d) Guarantees victims just and adequate reparation for the material and moral harm suffered as a result of racial discrimination.

### *III. Steps to be taken to prevent racial discrimination in regard to accused persons who are subject to judicial proceedings*

#### *A. Questioning, interrogation and arrest*

20. States parties should take the necessary steps to prevent questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that person's colour or features or membership of a racial or ethnic group, or any profiling which exposes him or her to greater suspicion.

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21. States parties should prevent and most severely punish violence, acts of torture, cruel, inhuman or degrading treatment and all violations of human rights affecting persons belonging to the groups referred to in the last paragraph of the preamble which are committed by State officials, particularly police and army personnel, customs authorities, and persons working in airports, penal institutions and social, medical and psychiatric services.

22. States parties should ensure the observance of the general principle of proportionality and strict necessity in recourse to force against persons belonging to the groups referred to in the last paragraph of the preamble, in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. 3/

23. States parties should also guarantee to all arrested persons, whatever the racial, national or ethnic group to which they belong, enjoyment of the fundamental rights of the defence enshrined in the relevant international human rights instruments (especially the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights), in particular the right not to be arbitrarily arrested or detained, the right to be informed of the reasons for their arrest, the right to the assistance of an interpreter, the right to the assistance of counsel, the right to be brought promptly before a judge or an authority empowered by the law to perform judicial functions, the right to consular protection guaranteed by article 36 of the Vienna Convention on Consular Relations and, in the case of refugees, the right to contact the Office of the United Nations High Commissioner for Refugees.

24. As regards persons placed in administrative holding centres or in holding areas in airports, States parties should ensure that they enjoy sufficiently decent living conditions.

25. Lastly, as regards the questioning or arrest of persons belonging to the groups referred to in the last paragraph of the preamble, States parties should bear in mind the special precautions to be taken when dealing with women or minors, because of their particular vulnerability.

### *B. Pretrial detention*

26. Bearing in mind statistics which show that persons held awaiting trial include an excessively high number of non-nationals and persons belonging to the groups referred to in the last paragraph of the preamble, States parties should ensure:

(a) That the mere fact of belonging to a racial or ethnic group or one of the aforementioned groups is not a sufficient reason, *de jure* or *de facto*, to place a person in pretrial detention. Such pretrial detention can be justified only on objective grounds stipulated in the law, such as the risk of flight, the risk that the person might destroy

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evidence or influence witnesses, or the risk of a serious disturbance of public order;

(b) That the requirement to deposit a guarantee or financial security in order to obtain release pending trial is applied in a manner appropriate to the situation of persons belonging to such groups, who are often in straitened economic circumstances, so as to prevent this requirement from leading to discrimination against such persons;

(c) That the guarantees often required of accused persons as a condition of their remaining at liberty pending trial (fixed address, declared employment, stable family ties) are weighed in the light of the insecure situation which may result from their membership of such groups, particularly in the case of women and minors;

(d) That persons belonging to such groups who are held pending trial enjoy all the rights to which prisoners are entitled under the relevant international norms, and particularly the rights specially adapted to their circumstances: the right to respect for their traditions as regards religion, culture and food, the right to relations with their families, the right to the assistance of an interpreter and, where appropriate, the right to consular assistance.

### *C. The trial and the court judgement*

27. Prior to the trial, States parties may, where appropriate, give preference to non-judicial or parajudicial procedures for dealing with the offence, taking into account the cultural or customary background of the perpetrator, especially in the case of persons belonging to indigenous peoples.

28. In general, States parties must ensure that persons belonging to the groups referred to in the last paragraph of the preamble, like all other persons, enjoy all the guarantees of a fair trial and equality before the law, as enshrined in the relevant international human rights instruments, and specifically.

#### *1. The right to the presumption of innocence*

29. This right implies that the police authorities, the judicial authorities and other public authorities must be forbidden to express their opinions publicly concerning the guilt of the accused before the court reaches a decision, much less to cast suspicion in advance on the members of a specific racial or ethnic group. These authorities have an obligation to ensure that the mass media do not disseminate information which might stigmatize certain categories of persons, particularly those belonging to the groups referred to in the last paragraph of the preamble.

#### *2. The right to the assistance of counsel and the right to an interpreter*



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30. Effectively guaranteeing these rights implies that States parties must set up a system under which counsel and interpreters will be assigned free of charge, together with legal help or advice and interpretation services for persons belonging to the groups referred to in the last paragraph of the preamble.

### 3. *The right to an independent and impartial tribunal*

31. States parties should strive firmly to ensure a lack of any racial or xenophobic prejudice on the part of judges, jury members and other judicial personnel.

32. They should prevent all direct influence by pressure groups, ideologies, religions and churches on the functioning of the system of justice and on the decisions of judges, which may have a discriminatory effect on certain groups.

33. States parties may, in this regard, take into account the Bangalore Principles of Judicial Conduct adopted in 2002 (E/CN.4/2003/65, annex), which recommend in particular that:

- Judges should be aware of the diversity of society and differences linked with background, in particular racial origins;
- They should not, by words or conduct, manifest any bias towards persons or groups on the grounds of their racial or other origin;
- They should carry out their duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and their colleagues, without unjustified differentiation; and
- They should oppose the manifestation of prejudice by the persons under their direction and by lawyers or their adoption of discriminatory behaviour towards a person or group on the basis of their colour, racial, national, religious or sexual origin, or on other irrelevant grounds.

### D. *Guarantee of fair punishment*

34. In this regard, States should ensure that the courts do not apply harsher punishments solely because of an accused person's membership of a specific racial or ethnic group.

35. Special attention should be paid in this regard to the system of minimum punishments and obligatory detention applicable to certain offences and to capital punishment in countries which have not abolished it, bearing in mind reports that this punishment is imposed and carried out more frequently against persons belonging to

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specific racial or ethnic groups.

36. In the case of persons belonging to indigenous peoples, States parties should give preference to alternatives to imprisonment and to other forms of punishment that are better adapted to their legal system, bearing in mind in particular International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

37. Punishments targeted exclusively at non-nationals that are additional to punishments under ordinary law, such as deportation, expulsion or banning from the country concerned, should be imposed only in exceptional circumstances and in a proportionate manner, for serious reasons related to public order which are stipulated in the law, and should take into account the need to respect the private family life of those concerned and the international protection to which they are entitled.

### *E. Execution of sentences*

38. When persons belonging to the groups referred to in the last paragraph of the preamble are serving prison terms, the States parties should:

(a) Guarantee such persons the enjoyment of all the rights to which prisoners are entitled under the relevant international norms, in particular rights specially adapted to their situation: the right to respect for their religious and cultural practices, the right to respect for their customs as regards food, the right to relations with their families, the right to the assistance of an interpreter, the right to basic welfare benefits and, where appropriate, the right to consular assistance. The medical, psychological or social services offered to prisoners should take their cultural background into account;

(b) Guarantee to all prisoners whose rights have been violated the right to an effective remedy before an independent and impartial authority;

(c) Comply, in this regard, with the United Nations norms in this field, and particularly the Standard Minimum Rules for the Treatment of Prisoners, 4/ the Basic Principles for the Treatment of Prisoners 5/ and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; 6/

(d) Allow such persons to benefit, where appropriate, from the provisions of domestic legislation and international or bilateral conventions relating to the transfer of foreign prisoners, offering them an opportunity to serve the prison term in their countries of origin.

39. Further, the independent authorities in the States parties that are responsible for supervising prison institutions should include members who have expertise in the field of

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racial discrimination and sound knowledge of the problems of racial and ethnic groups and the other vulnerable groups referred to in the last paragraph of the preamble; when necessary, such supervisory authorities should have an effective visit and complaint mechanism.

40. When non-nationals are sentenced to deportation, expulsion or banning from their territory, States parties should comply fully with the obligation of *non-refoulement* arising out of the international norms concerning refugees and human rights, and ensure that such persons will not be sent back to a country or territory where they would run the risk of serious violations of their human rights.

41. Lastly, with regard to women and children belonging to the groups referred to in the last paragraph of the preamble, States parties should pay the greatest attention possible with a view to ensuring that such persons benefit from the special regime to which they are entitled in relation to the execution of sentences, bearing in mind the particular difficulties faced by mothers of families and women belonging to certain communities, particularly indigenous communities.

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### Notes

1/ Recommended by the Economic and Social Council in its resolution 1989/65 of 24 May 1989.

2/ Recommended by the General Assembly in its resolution 55/89 of 4 December 2000.

3/ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990.

4/ Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955, and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

5/ Adopted and proclaimed by the General Assembly in its resolution 45/111 of 14 December 1990.

6/ Adopted by the General Assembly in its resolution 43/173 of 9 December 1988.

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- CEDAW General Recommendation 25 (Thirtieth session, 2004): Article 4, Paragraph 1: Temporary Special Measures, A/59/38 part I (2004) 78 at para. 12.

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...

12. Certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.

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- CRC General Comment 1 (Twenty-sixth session, 2001): Article 29 (1): The Aims of Education, CRC/C/103 (2001) 150 at paras. 11 and 24.

...

11. The Committee also wishes to highlight the links between article 29 (1) and the struggle against racism, racial discrimination, xenophobia and related intolerance. Racism and related phenomena thrive where there is ignorance, unfounded fears of racial, ethnic, religious, cultural and linguistic or other forms of difference, the exploitation of prejudices, or the teaching or dissemination of distorted values. A reliable and enduring antidote to all of these failings is the provision of education which promotes an understanding and appreciation of the values reflected in article 29 (1), including respect for differences, and challenges all aspects of discrimination and prejudice. Education should thus be accorded one of the highest priorities in all campaigns against the evils of racism and related phenomena. Emphasis must also be placed upon the importance of teaching about racism as it has been practised historically, and particularly as it manifests or has manifested itself within particular communities. Racist behaviour is not something engaged in only by “others”. It is therefore important to focus on the child’s own community when teaching human and children’s rights and the principle of non-discrimination. Such teaching can effectively contribute to the prevention and elimination of racism, ethnic discrimination, xenophobia and related intolerance.

...

24. The design and implementation of programmes to promote the values reflected in this article should become part of the standard response by Governments to almost all situations in which patterns of human rights violations have occurred. Thus, for example, where major incidents of racism, racial discrimination, xenophobia and related intolerance occur which involve those under 18, it can reasonably be presumed that the Government has not done all that it should to promote the values reflected in the Convention generally, and in article 29 (1) in particular. Appropriate additional measures under article 29 (1) should therefore be adopted which include research on and adoption of whatever educational techniques might have a positive impact in achieving

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the rights recognized in the Convention.

- CERD General Recommendation XXI (Forty-eighth session, 1996): Right to Self-Determination, A/51/18 (1996) 125. For text of General Recommendation, see **SELF-DETERMINATION**.
- CERD General Recommendation XXIII (Fifty-first session, 1997): On the Rights of Indigenous Peoples, A/52/18 (1997) 122. For text of General Recommendation, see **INDIGENOUS PEOPLES**.
- ICCPR General Comment 29 (Seventy-second session, 2001): Derogations from provisions of the Covenant during a state of emergency, A/56/40, vol. 1 (2001) 202 at paras. 8 and 13(e). For text of General Comment, see **DEROGATIONS**.
- ICESCR General Comment 15 (Twenty-ninth session, 2002): The Right to Water (arts. 11 and 12 of the Covenant), E/2003/22 (2002) 120 at paras. 13-15. For text of General Comment, see **ADEQUATE OR DECENT STANDARD OF LIVING - FOOD, CLOTHING, SHELTER**.
- ICESCR General Comment 16 (Thirty-fourth session, 2005): Article 3: The Equal Right of Men and Women to the Enjoyment of all Economic, Social and Cultural Rights, E/2006/22 (2005) 116 at paras. 5 and 10. For text of General Comment, see **EQUALITY AND DISCRIMINATION - GENDER DISCRIMINATION - General**.
- CRC General Comment 4 (Thirty-third session, 2003): Adolescent Health and Development in the Context of the Convention on the Rights of the Child, A/59/41 (2004) 102 at paras. 13 and 16. For text of General Comment, see **CHILDREN'S RIGHTS - HEALTH**.