

INDIGENOUS PEOPLES

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Costa Rica, CERD, A/57/18 (2002) 21 at paras. 74 and 76.

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

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

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

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

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

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

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76. The Committee notes with concern the shortcomings of the State party in its activities on behalf of indigenous peoples, as reported by the Office of the Ombudsman, in particular the failure on the part of the authorities to maintain communication with the indigenous population and the absence of specific government plans for them. In this context, the Committee wishes to refer to its general recommendation XXIII, in which it calls upon States parties to ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.

- Denmark, CERD, A/57/18 (2002) 27 at para. 123.

123. The Committee reiterates its previous concern regarding the delay in resolving the claims of the Inughuit with respect to the Thule Air Base. The Committee notes with serious concern claims of denials by Denmark of the identity and continued existence of the Inughuit as a separate ethnic or tribal entity, and recalls its general recommendation XXIII on indigenous peoples general recommendation VIII on the application of article 1

INDIGENOUS PEOPLES

(self-identification) and general recommendation XXIV concerning article 1 (international standard)...

- Botswana, CERD, A/57/18 (2002) 53 at paras. 301-305.

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

302. The Committee is concerned at expressions of prejudice against the Basarwa/San people, including by public officials...

303. The Committee notes with concern that, in spite of the significant economic growth achieved in Botswana, 47 per cent of the population remain below the poverty line and that no special and concrete measures have been taken to ensure the adequate development and protection of marginalized ethnic groups. The Committee recommends that the State party identify further the specific needs of persons belonging to minorities and indigenous peoples and adopt special measures to enhance the equal enjoyment of human rights among the various sectors of the population.

304. The Committee expresses concern that the ongoing dispossession of Basarwa/San people from their land and about reports stating that their resettlement outside the Central Kalahari Game Reserve does not respect their political, economic, social and cultural rights. The Committee draws the attention of the State party to its general recommendation XXIII on indigenous peoples, and recommends that no decisions directly relating to the rights and interests of members of indigenous peoples be taken without their informed consent. The Committee recommends that negotiations with the Basarwa/San and non-governmental organizations on this issue be resumed, and that a rights-based approach to development be adopted.

305. The Committee notes that the cultural and linguistic rights of the Basarwa/San are not fully respected, especially in educational curricula and in terms of access to the media. The Committee recommends that the State party fully recognize and respect the culture, history, languages and way of life of its various ethnic groups as an enrichment of the State's cultural identity and adopt measures to protect and support minority languages, in particular within

INDIGENOUS PEOPLES

education.

- Canada, CERD, A/57/18 (2002) 56 at paras. 321-323 and 329-334.

321. The Committee...notes with satisfaction the Statement of Reconciliation made by the Federal Government expressing Canada's profound regret for the historic injustices committed against Aboriginal people, in particular within the residential school system. The Committee further welcomes the commitment of the State party to building a new partnership with Aboriginal people and the adoption of numerous programmes for their benefit.

322. The Committee expresses its appreciation for the introduction of an amendment to the Canadian Human Rights Act to repeal the provision excluding the Indian Act from the scope of the Canadian Human Rights Act.

323. The Committee welcomes the extension of the scope of the Employment Equity Act to the federal public service and the Canadian Forces, and notes with satisfaction the progress achieved regarding the representation of Aboriginals and minorities in the federal public service.

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329. The Committee notes with concern that the process of implementing the recommendations adopted in 1996 by the Royal Commission on Aboriginal Peoples has not yet been completed....

330. The Committee expresses concern about the difficulties which may be encountered by Aboriginal peoples before the courts in establishing Aboriginal title over land. The Committee notes in that connection that to date, no Aboriginal group has proven Aboriginal title, and recommends that the State party examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before courts.

331. The Committee views with concern the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal people from their land, as recognized by the Royal Commission. The Committee notes with appreciation the assurance given by the delegation that Canada would no longer require a reference to extinguishment of surrendered land and resource rights in any land claim agreements...

332. The Committee is concerned that some aspects of the Indian Act may not be in conformity with rights protected under Article 5 of the Convention, in particular the right to marry and to choose one's spouse, the right to own property and the right to inherit, with a specific impact on Aboriginal women and children. The Committee recommends that the State party examine those aspects, in consultation with Aboriginal peoples...

INDIGENOUS PEOPLES

333. The Committee reiterates its concern about the high rate of incarceration of, violence against, and deaths in custody of Aboriginals and people of African and Asian descent...

334. The Committee is concerned with the high number of incidents of discrimination targeting Aboriginals and people belonging to minorities in the field of employment...

- New Zealand, CERD, A/57/18 (2002) 69 at paras. 415, 416, 419, 420, and 422-424.

415. The Committee welcomes the information that the “fiscal envelope” policy, which limited both the total funds available for the settlement of claims with Maori and for the settlement of all historical claims, was abandoned in 1996 in favour of a programme of “fair and equitable” settlements. The Committee is encouraged by the progress that has since been made on the settlements of historical Maori grievances and claims with individual *iwi* (tribes), including components of financial compensation and formal apology on behalf of the Crown.

416. The Committee welcomes acknowledgement of the disadvantaged position in society of minorities, especially Maori, and accordingly appreciates the large number of initiatives, programmes and projects in the areas of health, education, employment, social welfare, housing, language and culture, and correction services, which are designed to address the specific needs of Maori, Pacific Island people and persons from other groups such as refugees and ethnic minorities.

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419. The Committee welcomes the introduction of amendments to the electoral roll system, in particular the Maori electoral option, which have contributed to an appreciable increase in the representation of Maori in Parliament.

420. The Committee welcomes the State party's policies and initiatives designed to improve the status and use of the Maori language, including the increase[d] supply of services in the Maori language, including in education and State broadcasting.

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422. While noting the programmes and projects initiated by the State party...the Committee remains concerned about the continuing disadvantages that Maori, Pacific Island people and other ethnic communities face in the enjoyment of social and economic rights, such as the rights to employment, housing, social welfare, and health care. The State party is invited to devote priority attention to this issue and to continue to encourage active and effective participation by Maori in the search for solutions such as the Maori Mental Health Strategic Framework adopted in May 2002, with a view to further reducing these disadvantages.

423. The Committee continues to be concerned at the low representation of Maori women in a number of key sectors and their particular vulnerability to domestic violence. It

INDIGENOUS PEOPLES

encourages the State party to work towards reducing existing disparities through appropriate strategies.

424. While noting the measures that have been taken by the State party to reduce the incidence and causes of crime within the Maori and Pacific Island communities, the Committee remains concerned at the disproportionately high representation of Maori and Pacific Islanders in correctional facilities. The State party is invited to ensure appropriate funding for the measures envisaged or already initiated to address the problem.

- Ecuador, CERD, A/58/18 (2003) 22 at paras. 49-53, 56-60 and 62.

49. The Committee notes with satisfaction that the 1998 Constitution, as well as other legal provisions, guarantee special measures of protection for indigenous and Afro-Ecuadorian people and criminalize racial discrimination against these and other ethnic minorities...

50. The Committee welcomes the adoption of several action plans within the framework of the State party's National Human Rights Plan, in particular those on the rights of black persons and on the rights of foreigners, migrants, refugees and stateless and displaced persons, as well as the State party's efforts to promote the adoption of other action plans, in particular on the rights of indigenous peoples.

51. The Committee welcomes the creation by the State party of an Ombudsman's Office with special units for indigenous and Afro-Ecuadorian affairs, and of a Commission for Public Coordination of Human Rights.

52. The Committee welcomes the introduction of a bilingual education system in Ecuador for teaching some 94,000 indigenous children in both Spanish and their own languages.

53. The Committee notes with satisfaction that the State party has ratified ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries of 1989 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

...

56. The Committee recommends that the national institutions responsible for the advancement of the rights of indigenous and Afro-Ecuadorian people, in particular the Council for the Development of Ecuadorian Nationalities and Peoples (CODENPE), the Council for Afro-Ecuadorian Development (CODAE) and the Ombudsman's Office, be further strengthened...The Committee also recommends that the State party strengthen, through adequate funding and other appropriate means, the recently established Commission for Public Coordination of Human Rights.

INDIGENOUS PEOPLES

57. The Committee notes that, despite constitutional and legal guarantees, indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities are, *de facto*, still discriminated against. It urges the State party to ensure the practical application of the constitutional and legal provisions which outlaw racial discrimination and to guarantee special protection measures in favour of indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities, in particular through the national courts and other competent bodies such as the Ombudsman.

58. Serious concern is expressed about reported instances of excessive use of force by the police and armed forces against indigenous people, particularly in the context of political demonstrations and civil unrest. The Committee recommends that the State party ensure that such acts are avoided and, in this connection, recommends that the State party include human rights education in the professional training of police and armed forces, as well as prison staff, and requests it to report on any measures taken in this regard...

59. While welcoming the sincerity with which the State party recognizes the existence of *de facto* discrimination against indigenous people, Afro-Ecuadorians and members of other minorities, the Committee is concerned that a disproportionately high percentage of persons belonging to ethnic minority groups often do not enjoy equal access to the labour market, land and means of agricultural production, health services, education and other facilities and, accordingly, a disproportionately high percentage of members of these groups live in poverty. The Committee urges the State party to intensify its efforts to raise the living standards of these groups, with a view to ensuring their full enjoyment of the economic, social and cultural rights enumerated in article 5 of the Convention...

60. With regard to the important problem of illiteracy among indigenous and Afro-Ecuadorian people, the Committee recommends that the State party take measures to increase the number of bilingual teaching personnel, in particular from among these communities...

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62. As to the exploitation of the subsoil resources of the traditional lands of indigenous communities, the Committee observes that merely consulting these communities prior to exploiting the resources falls short of meeting the requirements set out in the Committee's general recommendation XXIII on the rights of indigenous peoples. The Committee therefore recommends that the prior informed consent of these communities be sought, and that the equitable sharing of benefits to be derived from such exploitation be ensured...

- Fiji, CERD, A/58/18 (2003) 25 at paras. 81, 82, 84, 86, 88 and 90.

81. The Committee notes with concern that the State party formulated, upon accession, declarations and reservations relating to articles 2, 3, 4, 5 and 6 of the Convention. The

INDIGENOUS PEOPLES

Committee suggests that the Fijian authorities review those reservations, which are inherited from colonial times, with a view to withdrawing them, taking into account paragraph 75 of the Durban Plan of Action. The State party should ensure that the specific protection and enhancement of indigenous Fijians' rights comply with international standards relating to the prohibition of racial discrimination.

82. The Committee is deeply concerned about the damage to race relations caused by the 1987 and 2000 *coups d'état* in Fiji. It encourages the State party to address perceptions that the State party continues to politicize culture, identity and ethnicity in order to maintain indigenous Fijian hegemony.

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

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86. The Committee is concerned about current perceptions amongst some Fijians that the State party is not paying enough attention to the issue of reconciling the different population groups in Fiji. It encourages the State party to explicitly promote a national identity that unites rather than divides indigenous and Indo-Fijians, as well as other communities, and to include this objective in its development plans.

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88. The Committee is concerned that the expiry of many leases of Native land has allegedly led to the "eviction" of numerous farmers, mainly Indo-Fijians, and that the resettlement programme of the State party appears to be insufficient. The Committee underlines the State's responsibility to provide assistance to "exited tenants", and recommends that it increase its efforts to compensate and resettle affected families. The Committee urges the State party to develop measures of conciliation between indigenous Fijians and Indo-Fijians over the land issue, with a view to obtaining a solution acceptable to both communities.

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90. The Committee is concerned that, according to some information, hate speech and assertions of the supremacy of indigenous Fijians occur regularly. The Committee

INDIGENOUS PEOPLES

recommends that the State party adopt all necessary measures to put an end to the dissemination of doctrines of superiority based on ethnic origin, which are socially unjust and dangerous, as well as in breach of the Convention...

- Russian Federation, CERD, A/58/18 (2003) 38 at para. 174.

174. The Committee welcomes the adoption of a number of laws that aim at protecting the rights of indigenous peoples. The Committee also notes with satisfaction the statement by the State party's delegation that preparatory work for the ratification of ILO Convention No. 169 has been accelerated.

- Slovenia, CERD, A/58/18 (2003) 45 at paras. 234 and 237.

234. The Committee appreciates the clarification provided by the delegation of various definitions used in the report and in domestic legislation to describe ethnic and national minorities, and "indigenous" and "new" communities. However, the Committee notes the potential discriminatory effects of the various definitions of the different ethnic groups...

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237. The Committee acknowledges the efforts made by the State party to promote cultural diversity, as well as to promote equal opportunities for the Roma and facilitate their participation in decision-making processes. However, the Committee is concerned that discriminatory attitudes and practices may still persist and that the distinction between "indigenous" Roma and "new" Roma may give rise to further discrimination. The Committee encourages the State party to pursue its current efforts to combat any discriminatory practices and attitudes against Roma which may exist, in particular in the areas of housing, employment and treatment by the police, by, *inter alia*, developing comprehensive proactive strategies in these fields...

- Bolivia, CERD, A/58/18 (2003) 58 at paras. 330, 335, 337, 339 and 340.

330. The Committee notes that, despite the State party's considerable progress and outstanding efforts, Bolivia remains one of the poorest and least developed countries in Latin America. According to the poverty indicators of 2002, 64.3 per cent of the population lives below the poverty line (53.3 per cent of the population of the urban areas and 82.1 per cent of the population of rural areas). The Committee is particularly concerned about this data and underlines that the discrepancy between urban and rural areas especially affects

INDIGENOUS PEOPLES

indigenous peoples and their daily living conditions.

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

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337. The Committee also takes note with appreciation of the steps taken to give adequate recognition to indigenous languages.

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339. While welcoming the State party's efforts aimed at ensuring the enjoyment and exercise of the rights of indigenous peoples through the adoption of constitutional, legal and institutional reforms, the Committee notes with concern the information received on the issue of indigenous lands allegedly allotted to private companies, especially in the communities of Chiquitano, Beni and Santa Cruz.

The Committee invites the State party to implement consistently in practice the commendable legislation it adopted in order to recognize the fundamental rights of indigenous peoples and to improve their living conditions. In this regard, the Committee draws the attention of the State party to its general recommendation XXIII which, *inter alia*, calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.

340. The Committee is also concerned about reports that human rights defenders providing assistance to members of indigenous groups in the context of land disputes continue to be threatened and harassed by police officers, especially in the region of Chapare.

The Committee recommends that the State party take all necessary measures for the protection of human rights defenders against any violence, threats, retaliation, *de facto* discrimination, pressure or any arbitrary action as a consequence of their activities. In this regard, the Committee recalls its general recommendation XIII on the training of law enforcement officials in the protection of human rights and encourages the State party to improve the training of law enforcement officials, especially police officers, so that the standards of the Convention are fully implemented.

INDIGENOUS PEOPLES

- Finland, CERD, A/58/18 (2003) 69 at paras. 404 and 405.

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

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

405. While the Committee notes the continuous efforts undertaken by the State party to solve the issue of Sami land rights, it regrets that the problem has not yet been resolved and that Finland has so far not adhered to International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Committee draws the State party's attention to general recommendation XXIII on the rights of indigenous peoples which, *inter alia*, calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

- Norway, CERD, A/58/18 (2003) 79 at para. 481.

481. The Committee is concerned that the recently proposed Finnmark Act will significantly limit the control and decision-making powers of the Sami population over the right to own and use land and natural resources in Finnmark County. The Committee draws the attention of the State party to its general recommendation XXIII on the rights of indigenous peoples which, *inter alia*, calls upon the State party to recognize and protect the right of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

The Committee recommends that the State party find an adequate solution concerning the control and decision-making powers over the right to land and natural resources in Finnmark County in agreement with the Sami people.

- Brazil, CERD, A/59/18 (2004) 14 at paras. 50, 57, 58, 60, 61 and 65.

50. The Committee commends the entry into force, in January 2003, of the new Civil Code, which is in line with the 1988 Constitution and eliminates discriminatory restrictions on the exercise of civil rights by indigenous peoples contained in the former 1916 Civil Code.

INDIGENOUS PEOPLES

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57. The Committee reiterates the concern expressed in its previous concluding observations (CERD/C/304/Add.11) about the persistence of deep structural inequalities affecting black and mestizo communities and indigenous peoples.

The Committee recommends that the State party intensify its efforts to combat racial discrimination and eliminate structural inequalities...

58. The Committee is concerned about *de facto* racial segregation faced by some black, mestizo and indigenous peoples in rural and urban areas, such as the commonly known “favelas”, and regrets that the State party has not provided sufficient information in this regard.

In the light of its general recommendation XIX, the Committee reminds the State party that racial segregation may also arise without any initiative or direct involvement by the public authorities, and encourages the State party to continue monitoring all trends which may give rise to racial or ethnic segregation and to work for the eradication of the resulting negative consequences.

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60. While the Committee takes note of the State party’s objective to complete the demarcation of indigenous lands by 2007 and considers it an important step towards securing the rights of indigenous peoples, it remains concerned at the fact that effective possession and use of indigenous lands and resources continues to be threatened and restricted by recurrent acts of aggression against indigenous peoples.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee recommends that the State party complete the demarcation of indigenous lands by 2007. Furthermore, the Committee recommends that the State party adopt urgent measures to recognize and protect, in practice, the right of indigenous peoples to own, develop, control and use their lands, territories and resources...

61. The Committee is concerned that only a few *quilombo* areas have been officially recognized, and that an even smaller number of these communities have received permanent title deeds to their lands.

The Committee recommends that the State party accelerate the process of identification of *quilombo* communities and lands and distribution of the respective title deeds to all such communities.

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65. The Committee reiterates the concern expressed in its previous concluding observations over the fact that illiterate citizens, who are found especially among the indigenous, black or mestizo groups, do not have the right to be elected to public office.

INDIGENOUS PEOPLES

In light of article 5 (c) of the Convention, the Committee recommends that the State party adopt adequate measures to combat illiteracy and allow all citizens the enjoyment of all political rights, in particular the right to be elected to public office.

- Nepal, CERD, A/59/18 (2004) 24 at para. 128.

128. The Committee regrets the general paucity of information regarding the implementation of the Convention in relation to the enjoyment of all human rights by the indigenous peoples of Nepal. The Committee is also concerned over allegations of forced relocation and violations of the right of the indigenous peoples to own, develop, control and use their traditional homelands and resources in the name of wildlife preservation.

The Committee recommends that the State party take stricter measures to combat discrimination against indigenous peoples, in line with its general recommendation XXIII on the right of indigenous peoples...It further invites the State party to consider acceding to ILO Convention No. 169.

- Suriname, CERD, A/59/18 (2004) 36 at paras. 190-198, 200 and 201.

190. The Committee is concerned that, more than 10 years after the 1992 Peace Accord, the State party has not adopted an adequate legislative framework to govern the legal recognition of the rights of indigenous and tribal peoples (Amerindians and Maroons) over their lands, territories and communal resources.

While noting the principle set forth in article 41 of the Constitution that natural resources are the property of the nation and must be used to promote economic, social and cultural development, the Committee points out that this principle must be exercised consistently with the rights of indigenous and tribal peoples. It recommends legal acknowledgment by the State party of the rights of indigenous and tribal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources.

191. The Committee notes the efforts made by the State party, to some degree, to reconcile the State's title to the country's natural resources with the rights of indigenous and tribal peoples, in particular by means of the 1992 Peace Accord. It nevertheless observes that the Accord is not clear on this issue, and has not been put into effect.

The Committee recommends urgent action by the State party in cooperation with the indigenous and tribal peoples concerned to identify the lands which those peoples have traditionally occupied and used...

INDIGENOUS PEOPLES

192. While also noting the State party's assertion that there are mechanisms guaranteeing that indigenous and tribal peoples are notified and consulted before any forestry or mining concessions within their lands are awarded, the Committee is disturbed at reports that consultation of that kind is rare.

The Committee invites the authorities to check that the established mechanisms for notifying and consulting the indigenous and tribal peoples are working, and recommends that the State party strive to reach agreements with the peoples concerned, as far as possible, before awarding any concessions.

193. The Committee notes that, under the draft Mining Act, indigenous and tribal peoples will be required to accept mining activities on their lands following agreement on compensation with the concession holders, and that if agreement cannot be reached, the matter will be settled by the executive, and not the judiciary. More generally, the Committee is concerned that indigenous and tribal peoples cannot as such seek recognition of their traditional rights before the courts because they are not recognized legally as juridical persons.

The Committee recommends that indigenous and tribal peoples should be granted the right of appeal to the courts, or any independent body specially created for that purpose, in order to uphold their traditional rights and their right to be consulted before concessions are granted and to be fairly compensated for any damage.

194. The Committee notes with concern complaints by indigenous and tribal peoples in the interior about the deleterious effects of natural-resource exploitation on their environment, health and culture. It regrets that the State party does not seem to have attached the highest priority to dealing with the problem of mercury contamination in parts of the interior.

The Committee wishes to point out that development objectives are no justification for encroachments on human rights, and that along with the right to exploit natural resources there are specific, concomitant obligations towards the local population; it recommends adoption by the State party of a legislative framework that clearly sets forth the broad principles governing the exploitation of the land, including the obligation to abide by strict environmental standards. It recommends the State party to set up an independent body to conduct environmental impact surveys before any operating licenses are issued, and to conduct health and safety checks on small-scale and industrial gold-mining.

195. The Committee is disturbed at reports of growing sexual exploitation of children and the rape of girls belonging to indigenous and tribal peoples in regions where mining and forestry operations have developed.

The Committee recommends that the State party take the necessary measures to ensure that

INDIGENOUS PEOPLES

those responsible are prosecuted.

196. The Committee is concerned at information about the spread of sexually transmitted diseases such as HIV/AIDS amongst indigenous and tribal people, in connection with the expansion of mining and forestry operations in the interior of the country.

The Committee recommends that the State party introduce a plan of action to combat AIDS in the interior.

197. The Committee expresses surprise at the State party's statement that the Maroons and Amerindians have never officially complained about the effects of natural-resource exploitation.

The Committee recommends that an information campaign be directed to the indigenous and tribal peoples, informing them what remedies are available for upholding their rights and interests, and that investigations take place whenever the State party receives reports that the rights of indigenous and tribal peoples have been flouted.

198. The Committee is disturbed at the continuing lack of health and education facilities and utilities available to indigenous and tribal peoples. It regrets that no special measures have been taken to secure their advancement on the grounds that there are no available data suggesting that they need special protection.

The Committee recommends that greater efforts be undertaken by the State party, in particular as regards the education plan of action for the interior. It also recommends the inclusion in agreements with large business ventures - in consultation with the peoples concerned - of language specifying how those ventures will contribute to the promotion of human rights in areas such as education.

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200. While noting the State party's legitimate desire to ensure that the official language is taught and to promote the teaching of Spanish and English, the Committee is disturbed at the lack of plans to preserve the native languages of the country's indigenous and tribal peoples. It is also concerned that Sranan Tongo, which is spoken by the majority of the population, is not given sufficient prominence in education.

The Committee invites the State party to encourage the learning of mother tongues, in particular Sranan Tongo, with a view to preserve the cultural and linguistic identity of the various ethnic groups.

201. The Committee notes that the authorities appear to limit themselves to not hampering the exercise by the various ethnic groups and their members of their cultural rights.

INDIGENOUS PEOPLES

The Committee recommends that the State party should respect and promote the indigenous and tribal peoples' cultures, languages and distinctive ways of life. It encourages the authorities to carry out a survey, in collaboration with the groups concerned, of the impact of economic development in the indigenous and tribal peoples' lands on their collective and individual cultural rights.

- Sweden, CERD, A/59/18 (2004) 41 at paras. 216, 222 and 223.

216. The Committee is encouraged by the initiatives taken by the State party to increase knowledge of the Sami people among the general society, including the initiation of an information campaign.

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222. While the Committee welcomes the appointment in 2002 of the Boundary Commission to formulate proposals for the definition of the boundaries for Sami reindeer-breeding areas by the end of 2004 as an important step towards securing the rights of the Sami people, it remains concerned that issues related to Sami land rights remain unresolved.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee encourages the State party to ensure that the Boundary Commission fulfils its task within the scheduled time. Consequently, it also recommends that the State party introduce adequate legislation, in consultation with the Sami people, regarding the findings of the Boundary Commission, in order to remove the legal uncertainty relating to Sami land rights.

223. The Committee notes that the State party has so far not been in a position to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization. In this connection, it takes note of the State party's observation that in order for ratification to be possible, it is necessary to define at least the outer boundaries for reindeer husbandry more clearly than at present.

The Committee invites the State party to accelerate all preliminary work in order to proceed with the ratification of the Convention as swiftly as possible.

- Argentina, CERD, A/59/18 (2004) 45 at paras. 246, 248 and 249.

246. The Committee is concerned about the State party's failure to enact the necessary legislation to implement the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee further notes reported difficulties in recognizing the legal personality of indigenous peoples, the inadequate protection in practice of indigenous peoples' ownership and possession of ancestral lands and the consequential impairment of indigenous peoples'

INDIGENOUS PEOPLES

ability to practise their religious beliefs.

In the light of its general recommendation XXIII, the Committee urges the State party to: fully implement ILO Convention No. 169; adopt, in consultation with indigenous peoples, a general land tenure policy and effective legal procedures to recognize indigenous peoples' titles to land and to demarcate territorial boundaries; adopt measures to safeguard indigenous rights over ancestral lands, especially sacred sites, and compensate indigenous peoples for land deprivation; ensure access to justice, as well as recognize effectively the legal personality of indigenous peoples and their communities in their traditional way of life, and respect the special importance for the culture and spiritual values of indigenous peoples of their relationship with the land.

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248. The Committee takes note that the Coordinating Council of Argentine Indigenous Peoples envisaged by Act No. 23,302 to represent indigenous peoples in the National Institute of Indigenous Affairs has still not been established.

The Committee recalls its general recommendation XXIII on the rights of indigenous peoples, which calls upon States parties to ensure that no decisions directly relating to the rights and interests of indigenous peoples are taken without their informed consent, and urges the State party to ensure that the Council is established as soon as possible and that sufficient funds are allocated for the effective functioning of the Council and the Institute.

249. The Committee regrets that despite the State party's efforts, the right to a bilingual and intercultural education for indigenous peoples recognized by the Constitution is not fully respected in practice. It takes note with concern of allegations regarding the lack of adequate training provided to indigenous teachers and discrimination faced by them, as well as the insufficient measures to preserve indigenous languages and to include the history and culture of indigenous peoples in school curricula.

The Committee recommends that the State party adopt all necessary measures to ensure, in consultation with the indigenous communities, a bilingual and intercultural education for indigenous peoples with full respect for their cultural identity, languages, history and culture, bearing also in mind the wider importance of intercultural education for the general population. It further recommends that adequate training be provided to indigenous teachers and effective measures be adopted to combat all forms of discrimination against them...

- Saint Lucia, CERD, A/59/18 (2004) 86 at paras. 446, 447, 449 and 450.

446. The Committee notes the information received indicating the alleged absence of indigenous representatives in senior government posts. It notes that the requirement to speak and read English, provided for under article 25 of the Constitution, curtails the right of the

INDIGENOUS PEOPLES

indigenous population, the majority of whom are fluent only in Kweyol, to participate in political elections.

The Committee recommends that the State party bring the relevant legislation into line with the provisions of articles 2 (c) and 5 (c) of the Convention.

447. The Committee notes with concern that, according to certain sources, the Bethechilokono people are allegedly not invited to participate in decisions affecting them, including decisions concerning management of cultural sites and other cultural objects.

The Committee draws the attention of the State party to its general recommendation XXIII concerning the rights of indigenous peoples and recommends the establishment of mechanisms guaranteeing participation by the Bethechilokono people in decisions affecting them.

...

449. The Committee notes that access to education and training by indigenous peoples appears very limited and is concerned at the fact that Kweyol is not taught in the education system.

The Committee encourages the State party to take measures to facilitate access to education by members of indigenous peoples and to ensure, as far as possible, that members of indigenous peoples have the opportunity to learn Kweyol and to receive instruction in this language.

450. The Committee notes with concern that, according to information received, the cultural rights of the indigenous peoples are allegedly threatened by the destruction of sacred and cultural sites and objects.

It requests the State party to take measures to preserve and protect the cultural heritage of the indigenous peoples...

- Australia, CERD, A/60/18 (2005) 13 at paras. 24, 25, 31 36, 37, 39-41 and 45.

24. The Committee notes with satisfaction that significant progress has been achieved in the enjoyment of economic, social and cultural rights by the indigenous peoples. It welcomes the commitment of all Australian Governments to work together on this issue through the Council of Australian Governments, as well as the adoption of a national strategy on indigenous family violence.

25. The Committee notes with great interest the diversionary and preventative programmes aimed at reducing the number of indigenous juveniles entering the criminal justice system,

INDIGENOUS PEOPLES

as well as the development of culturally sensitive procedures and practices among the police and the judiciary.

...

31. The Committee is concerned about the abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC), the main policymaking body in Aboriginal affairs consisting of elected indigenous representatives. It is concerned that the establishment of a board of appointed experts to advise the Government on indigenous peoples' issues, as well as the transfer of most programmes previously provided by the ATSIC and the Aboriginal and Torres Strait Islander Service to government departments, will reduce the participation of indigenous peoples in decision-making and thus alter the State party's capacity to address the full range of issues relating to indigenous peoples (arts. 2 and 5).

The Committee recommends that the State party take decisions directly relating to the rights and interests of indigenous peoples with their informed consent, as stated in its general recommendation XXIII. The Committee recommends that the State party reconsider the withdrawal of existing guarantees for the effective representative participation of indigenous peoples in the conduct of public affairs as well as in decision- and policymaking relating to their rights and interests.

...

36. The Committee notes with concern the persistence of diverging perceptions between governmental authorities and indigenous peoples and others on the compatibility of the 1998 amendments to the Native Title Act with the Convention. The Committee reiterates its view that the *Mabo* case and the 1993 Native Title Act constituted a significant development in the recognition of indigenous peoples' rights, but that the 1998 amendments roll back some of the protections previously offered to indigenous peoples and provide legal certainty for Government and third parties at the expense of indigenous title. The Committee stresses in this regard that the use by the State party of a margin of appreciation in order to strike a balance between existing interests is limited by its obligations under the Convention (art. 5).

The Committee recommends that the State party refrain from adopting measures that withdraw existing guarantees of indigenous rights and that it make every effort to seek the informed consent of indigenous peoples before adopting decisions relating to their rights to land. It further recommends that the State party reopen discussions with indigenous peoples with a view to discussing possible amendments to the Native Title Act and finding solutions acceptable to all.

37. The Committee is concerned about information according to which proof of continuous observance and acknowledgement of the laws and customs of indigenous peoples since the British acquisition of sovereignty over Australia is required to establish elements in the statutory definition of native title under the Native Title Act. The high standard of proof required is reported to have the consequence that many indigenous peoples are unable to obtain recognition of their relationship with their traditional lands (art. 5).

INDIGENOUS PEOPLES

The Committee...recommends that the State party review the requirement of such a high standard of proof, bearing in mind the nature of the relationship of indigenous peoples to their land.

...

39. While noting the improvement in the enjoyment by the indigenous peoples of their economic, social and cultural rights, the Committee is concerned over the wide gap that still exists between the indigenous peoples and others, in particular in the areas of employment, housing, health, education and income (art. 5).

The Committee recommends that the State party intensify its efforts to achieve equality in the enjoyment of rights and allocate adequate resources to programmes aimed at the eradication of disparities. It recommends in particular that decisive steps be taken to ensure that a sufficient number of health professionals provide services to indigenous peoples, and that the State party set up benchmarks for monitoring progress in key areas of indigenous disadvantage.

40. The Committee, having taken note of the explanations provided by the State party, reiterates its concern about provisions for mandatory sentencing in the Criminal Code of Western Australia. The Committee is concerned at reports of the disparate impact of this law on indigenous groups, and reminds the State party that the Convention prohibits direct as well as indirect discrimination (art. 5).

The Committee recommends that the State party take appropriate measures to achieve abrogation of such legislation, following the example of the Northern Territory. The Committee further stresses the role and responsibility of the Federal Government in this regard under the Convention.

41. The Committee remains concerned about the striking overrepresentation of indigenous peoples in prisons as well as the percentage of indigenous deaths in custody. It has also been reported that indigenous women constitute the fastest-growing prison population (art. 5).

The Committee recommends that the State party increase its efforts to remedy this situation...

...

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

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

INDIGENOUS PEOPLES

to address appropriately the harm inflicted by the forced removal of indigenous children.

- Lao People's Democratic Republic, CERD, A/60/18 (2005) 35 at paras. 169 and 170.

169. The Committee takes note of the delegation's explanations regarding the reluctance of the authorities to classify ethnic groups in the Lao People's Democratic Republic as minorities or indigenous peoples (arts. 1, 2 and 5).

The Committee recommends to the State party that it recognize the rights of persons belonging to minorities and indigenous peoples as set out in international law, regardless of the name given to such groups in domestic law. It invites the State party to take into consideration the way in which the groups concerned perceive and define themselves. The Committee recalls that the principle of non-discrimination requires that the specific characteristics of ethnic, cultural and religious groups be taken into consideration.

170. The Committee notes that the State party has adopted a policy of resettling members of ethnic groups from the mountains and highland plateaux to the plains (art. 5).

The Committee recommends... to the State party that it study all possible alternatives with a view to avoiding displacement; that it ensure that the persons concerned are made fully aware of the reasons for and modalities of their displacement and of the measures taken for compensation and resettlement; that it endeavour to obtain the free and informed consent of the persons and groups concerned; and that it make remedies available to them. The State party should pay particular attention to the close cultural ties that bind certain indigenous or tribal peoples to their land and take into consideration the Committee's general recommendation XXIII of 1997 in this regard. The preparation of a legislative framework setting out the rights of the persons and groups concerned, together with information and consultation procedures, would be particularly useful.

- Nigeria, CERD, A/60/18 (2005) 54 at para. 294.

294. The Committee is deeply concerned about the adverse effects on the environment of ethnic communities through large-scale exploitation of natural resources in the Delta Region and other River States, in particular, the Ogoni areas. It is concerned at the State party's failure to engage in meaningful consultation with the concerned communities, and about the deleterious effects of the oil production activities on the local infrastructure, economy, health and education. In this regard, the Committee also notes with concern that the Land Use Act of 1978 and the Petroleum Decree of 1969 are contrary to the provisions of the Convention. Furthermore, the Committee is alarmed at the reports of assaults, use of excessive force, summary executions and other abuses against members of local communities by law

INDIGENOUS PEOPLES

enforcement officers as well as by security personnel employed by petroleum corporations (arts. 2 and 5).

In the light of general recommendation XXIII (1997) on the rights of indigenous peoples, the Committee urges the State party to take urgent measures to combat “environmental racism” and degradation. In particular, it recommends that the State party repeal the Land Use Act of 1978 and the Petroleum Decree of 1969 and the adoption of a legislative framework which clearly sets forth the broad principles governing the exploitation of the land, including the obligation to abide by strict environmental standards as well as fair and equitable revenue distribution. The Committee reiterates that along with the right to exploit natural resources there are specific, concomitant obligations towards the local population, including effective and meaningful consultation. It further urges the State party to conduct full and impartial investigations of cases of alleged human rights violations by law enforcement officials and by private security personnel, institute proceedings against perpetrators and provide adequate redress to victims and/or their families.

- Venezuela (Bolivarian Republic of), CERD, A/60/18 (2005) 71 at paras. 366, 369, 371, 373, 377 and 379-382.

366. The Committee welcomes with satisfaction the rights and principles contained in the Constitution of the Bolivarian Republic of Venezuela of 1999, in particular the preamble, which establishes the multi-ethnic and multicultural nature of Venezuelan society, as well as article 21 and chapter VIII which guarantees the rights of indigenous peoples, such as the right to intercultural bilingual education, the right to traditional medicine and the right to participate in political life.

...

369. The Committee notes with satisfaction that indigenous peoples are represented in the National Assembly, which has at least three indigenous deputies with their respective alternates, elected by indigenous peoples in keeping with their traditions and customs.

...

371. The Committee notes with satisfaction Presidential Decree No. 1795 of 27 May 2002 concerning protection of the languages of indigenous peoples. It notes that indigenous peoples may make use of their languages in their dealings with the authorities or, where appropriate, have an official interpreter, and that the Constitution has been translated into the Wayuu language.

...

373. The Committee welcomes the State party’s ratification in 2002 of International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) concerning indigenous and tribal peoples in independent countries.

...

INDIGENOUS PEOPLES

377. The Committee notes that the identity document issued to indigenous persons in accordance with the Regulations under the Organization Act on the Identification of Indigenous Persons includes the name of the ethnic group, the people and community to which such persons belong.

The Committee requests the State party to ensure that, in accordance with its general recommendation VIII, the identity document for indigenous persons be based upon self-identification by the individual concerned.

...

379. Bearing in mind the State party's efforts, the Committee reiterates its concern at the persistence of profound structural social and economic inequalities which have an impact on the enjoyment of human rights, particularly economic and social rights, and affect Afro-descendants and indigenous peoples.

The Committee encourages the State party to step up its efforts to improve the economic and social rights situation of Afro-descendants and indigenous people, such as the right to housing, the right to health and sanitation services, the right to work and the right to adequate nutrition, in order to combat racial discrimination and eliminate structural inequalities.

380. The Committee notes with great concern that between 1995 and 2003, 61 persons, most of whom were indigenous or Afro-descendants, were murdered in land conflicts, presumably by private armed groups (*sicarios*), and that this problem has worsened since 2001.

The Committee requests the State party to take efficient and urgent measures to end this violence, which mainly affects indigenous peoples and Afro-descendants, including the establishment of an independent monitoring mechanism to investigate such incidents in order to ensure that they do not go unpunished.

381. The Committee notes with concern that, according to the report by the State party, the indigenous peoples of the upper Orinoco and the Casiquiare and Guainia-Río Negro basins have problems of various kinds. More particularly, in the centres of illegal gold prospecting, there is evidence that indigenous children and adolescents are subjected to labour exploitation and the worst forms of child labour, including servitude and slavery, child prostitution, trafficking and sale.

The Committee recommends that the State party adopt urgent measures to tackle this situation...

382. While the Committee takes note of the State party's efforts to demarcate indigenous lands, such as the promulgation of the Indigenous Peoples Habitat and Lands, Demarcation and Protection Act, it is concerned that the effective ownership and use of indigenous lands

INDIGENOUS PEOPLES

and resources continue to be threatened and restricted by repeated aggression from individuals and private groups against indigenous peoples, in order to move them from their land.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee recommends that the State party take measures to recognize and protect the rights of indigenous peoples to own, develop, control and use their lands, territories and resources...

ICCPR

- Sweden, ICCPR, A/57/40 vol. I (2002) 57 at para. 79(15).

(15) The Committee is concerned at the limited extent to which the Sami Parliament can have a significant role in the decision-making process on issues affecting the traditional lands and economic activities of the indigenous Sami people, such as projects in the fields of hydroelectricity, mining and forestry, as well as the privatization of land (articles 1, 25 and 27 of the Covenant).

The State party should take steps to involve the Sami by giving them greater influence in decision-making affecting their natural environment and their means of subsistence.

- New Zealand, ICCPR, A/57/40 vol. I (2002) 63 at paras. 81(7) and 81(14).

(7) The Committee welcomes the further progress made in the protection and promotion of the rights of Maori under the Covenant, in particular the amendments introduced by the Maori Reserved Land Amendment Act which came into force in 1998. In this respect, the Committee notes with satisfaction that the Act provides for compensation to be paid to lessors for delays in carrying out rent reviews and to ensure fair annual rents, and providing for compensation to be paid to (largely non-Maori) lessees under certain circumstances. The approach of providing compensation from public funds helps to avoid tensions that might otherwise hamper the recognition of indigenous land and resource rights.

...

(14) While recognizing the positive measures taken by the State party with regard to the Maori, including the implementation of their rights to land and resources, the Committee continues to be concerned that they remain a disadvantaged group in New Zealand society with respect to the enjoyment of their Covenant rights in all areas of their everyday life.

The State party should continue to reinforce its efforts to ensure the full enjoyment of the Covenant rights by the Maori people.

INDIGENOUS PEOPLES

- Viet Nam, ICCPR, A/57/40 vol. I (2002) 67 at para. 82(19).

(19) While noting that the State party denies any violation of the Covenant rights in this respect, the Committee remains concerned at the abundance of information regarding the treatment of the Degar (Montagnard) indicating serious violations of articles 7 and 27 of the Covenant. The Committee is concerned at the lack of specific information concerning indigenous peoples, especially the Degar (Montagnard), and about measures taken to ensure that their rights under article 27 to enjoy their cultural traditions, including their religion and language, as well as to carry out their agricultural activities, are respected.

The State party should take immediate measures to ensure that the rights of members of indigenous communities are respected. Non-governmental organizations and other human rights monitors should be granted access to the central highlands.

- Philippines, ICCPR, A/59/40 vol. I (2003) 15 at paras. 63(8), 63(15) and 63(16).

(8) The Committee is concerned about the lack of appropriate measures to investigate crimes allegedly committed by State security forces and agents, in particular those committed against human rights defenders, journalists and leaders of indigenous peoples, and the lack of measures taken to prosecute and punish the perpetrators. Furthermore, the Committee is concerned at reports of intimidation and threats of retaliation impeding the right to an effective remedy for persons whose rights and freedoms have been violated.

(a) The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 6 and 9 of the Covenant, and ensure effective enforcement of the legislation.

(b) The State party should provide information on the outcome of the proceedings related to the cases of Eden Marcellana and Eddie Gumanoy and the execution of 11 persons on Commonwealth Avenue, Manila, in 1995.

...
(15) The Committee is concerned at continuing reports of displacement of persons and evacuation of populations, including indigenous population groups, in areas of counter-insurgency operations.

The State party should take urgent measures to ensure the protection of civilians in areas affected by military operations, in accordance with its human rights obligations.

(16) The Committee welcomes the adoption of the Indigenous Peoples Rights Act (IPRA) in 1997 and the subsequent establishment of the National Commission on Indigenous

INDIGENOUS PEOPLES

Peoples (NCIP), but remains concerned about the lack of effective implementation of the legislation. The Committee welcomes the positive measures noted by the delegation, but considers their scope to be limited. It is further concerned at the human rights implications for indigenous groups of economic activities, such as mining operations.

The State party should ensure effective enforcement of the above legislation and ensure that indigenous peoples' land and resource rights enjoy adequate protection in relation to mining and other competing usage, and that the capacity of the National Commission on Indigenous Peoples is strengthened. Positive measures should be expanded to include land rights issues.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(20).

(20) The Committee expresses its concern about the continued discrimination against indigenous and minority communities. The Committee is also concerned about the lack of forums for consultation with representatives of the communities with regard to the distribution of land to the indigenous peoples. The Committee is also concerned about the lack of guarantees with respect to the exercise by the indigenous communities of the right to property, given the existence of projects to develop and exploit resources that could affect those communities.

The State party should guarantee the full enjoyment of the rights of persons belonging to minorities which are set out in the Covenant, in particular with respect to the distribution of land and natural resources, through effective consultations with representatives of the indigenous communities.

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at para. 69(21).

(21) The Committee is concerned at the lack of legal recognition and guarantees for the protection of indigenous and tribal rights to land and other resources. It regrets that logging and mining concessions in many instances were granted without consulting or even informing indigenous and tribal groups, in particular the Maroon and Amerindian communities. It also notes allegations that mercury has been released into the environment in the vicinity of such communities, which continues to threaten the life, health and environment of indigenous and tribal peoples. The latter are also said to be victims of discrimination in employment and education, and generally with respect to their participation in other areas of life (arts. 26 and 27).

The State party should guarantee to members of indigenous communities the full enjoyment of all the rights recognized by article 27 of the Covenant, and adopt specific legislation for

INDIGENOUS PEOPLES

this purpose. A mechanism to allow for indigenous and tribal peoples to be consulted and to participate in decisions that affect them should be established. The State party should take the necessary steps to prevent mercury poisoning of waters, and thereby of inhabitants, in the interior of the State party's territory.

- Finland, ICCPR, A/60/40 vol. I (2004) 22 at para. 81(17).

(17) The Committee regrets that it has not received a clear answer concerning the rights of the Sami as an indigenous people (Constitution, sect. 17, subsect. 3), in the light of article 1 of the Covenant. It reiterates its concern over the failure to settle the question of Sami rights to land ownership and the various public and private uses of land that affect the Sami's traditional means of subsistence - in particular reindeer breeding - thus endangering their traditional culture and way of life, and hence their identity.

The State party should, in conjunction with the Sami people, swiftly take decisive action to arrive at an appropriate solution to the land dispute with due regard for the need to preserve the Sami identity in accordance with article 27 of the Covenant. Meanwhile it is requested to refrain from any action that might adversely prejudice settlement of the issue of Sami land rights.

- Slovenia, ICCPR, A/60/40 vol. I (2005) 74 at para. 93(16).

(16) The Committee is concerned about the difference in the status between the so-called "autochthonous" (indigenous) and "non-autochthonous" (new) Roma communities in the State party (arts. 26 and 27).

The State party should consider eliminating discrimination on the basis of status within the Roma minority and provide to the whole Roma community a status free of discrimination, and improve its living conditions and enhance its participation in public life.

ICESCR

- Sweden, ICESCR, E/2002/22 (2001) 106 at paras. 723, 724 and 735.

723. The Committee expresses its concern about the persisting unclear situation with regard to the Sami land rights.

724. The Committee regrets that the State party has not yet ratified ILO Convention No. 169 (1989) concerning indigenous and tribal peoples in independent countries in spite of an

INDIGENOUS PEOPLES

apparently favourable attitude towards it.

...

735. The Committee recommends that the State party to implement the proposal, made in the additional information provided after the dialogue had taken place, of setting up a committee to review, identify and clarify the issues concerning the land rights of the Sami, so that ILO Convention No. 169 (1989) concerning indigenous and tribal peoples in independent countries can soon be ratified.

- Colombia, ICESCR, E/2002/22 (2001) 110 at paras. 760, 761, 771, 775, 782, 792 and 796.

760. The Committee notes with serious concern the increasing number of internally displaced persons. The Committee is particularly concerned that the internally displaced persons come from the most disadvantaged and marginalized groups, predominantly women and children, peasants and members of the country's indigenous and Afro-Colombian community who have been driven out of their areas by violence and armed conflict. In particular, the Committee notes with concern the negative consequences of the military part of "Plan Colombia", which has led to further displacements of population groups affected by the spraying of illegal crops.

761. The Committee notes with regret that the traditional lands of indigenous peoples have been reduced or occupied, without their consent, by timber, mining and oil companies, at the expense of the exercise of their culture and the equilibrium of the ecosystem.

...

771. The Committee is deeply concerned about the living conditions of internally displaced persons, in particular women, children, peasants and members of the country's indigenous and Afro-Colombian communities.

...

775. The Committee is concerned about the reduction of State subsidies for health care which makes access to health care even more difficult, particularly in the rural areas where health care coverage is already significantly more limited than in urban areas. The Committee also notes that women and indigenous groups are adversely affected by this reduction in subsidies.

...

782. The Committee urges the State party to ensure that indigenous peoples participate in decisions affecting their lives. The Committee particularly urges the State party to consult and seek the consent of the indigenous peoples concerned prior to the implementation of timber, soil or subsoil mining projects and on any public policy affecting them, in accordance with ILO Convention No. 169 (1989) concerning indigenous and tribal peoples in independent countries.

...

792. The Committee calls upon the State party to take steps to improve the living conditions

INDIGENOUS PEOPLES

of internally displaces persons, in particular women and children, peasants and members of the country's indigenous and Afro-Colombian communities.

...

796. The Committee urges the State party to allocate a higher percentage of its GDP to the health sector and to ensure that its system of subsidies does not discriminate against the most disadvantaged and marginalized groups.

- Brazil, ICESCR, E/2004/22 (2003) 28 at paras. 142, 143, 165 and 166.

142. The Committee is deeply concerned that the State party does not provide sufficient protection for indigenous peoples, who continue to be forcibly evicted from their lands and face threats to their lives and even execution. The Committee also notes with concern that the right of indigenous peoples to own land is not respected and that mineral, timber and other commercial interests have been allowed to expropriate, with impunity, large portions of land belonging to indigenous peoples.

143. The Committee is concerned about the forced eviction of the Quilombo communities from their ancestral lands, which are expropriated with impunity by mineral and other commercial interests.

...

165. The Committee calls upon the State party to ensure that indigenous peoples are effectively protected from threats and danger to their lives and from eviction from their lands. The Committee particularly urges the State party to seek the consent of the indigenous peoples concerned prior to the implementation of timber, soil or subsoil mining projects and any public policy affecting them, in accordance with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989).

166. The Committee urges the State party to adopt measures to guarantee the ancestral lands of the Quilombo communities and to ensure that any evictions are carried out in compliance with the guidelines set out in general comment No. 7 of the Committee (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions.

- New Zealand, ICESCR, E/2004/22 (2003) 35 at paras. 179, 188, 191, 193, 205, 206 and 208.

179. The Committee notes with appreciation the efforts undertaken by the State party to ensure that the indigenous Maori people enjoy their rights under the Covenant. The Committee notes with satisfaction that the State party's delegation included a senior official of the Ministry of Maori Development.

...

188. While taking note of the measures taken by the State party to confront domestic

INDIGENOUS PEOPLES

violence under the Ministry of Health Family Violence Project, the Committee is concerned about the persistence of the phenomenon among all socio-economic groups and especially among the indigenous Maori people.

...

191. The Committee notes with concern that despite improvements in some health indicators, the general health situation of the indigenous Maori people continues to be worse than that of other segments of the population in the State party. In particular, the Committee is concerned that the life expectancy of Maoris is significantly lower than the national average.

...

193. The Committee is concerned about persistent inequalities between the Maori and non-Maori people in access to education and the high dropout rates, especially among Maori children and young people and the disadvantaged and marginalized groups.

...

205. The Committee recommends that the State party adopt a national plan to combat poverty with clear indicators to assess its impact on the incidence of poverty, in particular among disadvantaged and marginalized groups, the indigenous Maori people and Pacific Islanders. In this respect, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights.^{7/}

206. The Committee requests the State party to adopt effective measures to improve the health situation of the indigenous Maori people.

...

208. The Committee urges the State party to take remedial action to ensure that the indigenous Maori people have equal access to education...

Notes

...

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

- Guatemala, ICESCR, E/2004/22 (2003) 59 at paras. 397, 398, 402, 403, 405, 414, 416, 419-421, 423, 432, 434 and 437.

397. The Committee welcomes the establishment of the Office for the Defence of Indigenous Women for the promotion and development of proposals for government policies, plans and programmes for the defence of the rights of indigenous women.

398. The Committee takes note with satisfaction of the adoption of Legislative Decree No. 19 of May 2003 on national languages recognizing, promoting and respecting the languages

INDIGENOUS PEOPLES

of the Maya, Garifuna and Xinka people.

...

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

403. The Committee is concerned about the persisting discrimination against indigenous peoples, with regard to access to, *inter alia*, landownership, work, education, health services and adequate nutrition and housing.

...

405. The Committee is concerned about the high level of unemployment, in particular among indigenous peoples. In this regard, the Committee takes note that the State party has not yet ratified ILO Convention No. 2 (1919) concerning Unemployment.

...

414. The Committee is concerned about the high level of poverty which affects, according to official statistics, 73.8 per cent of the indigenous population and 40.6 per cent of the non-indigenous populations.

...

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

...

419. The Committee is concerned that only 30 per cent of children living in rural communities complete primary education and, in the case of indigenous children, only 20 per cent complete it. The Committee also expresses its concern about the limited access for indigenous peoples to enjoy education in their mother tongue and to use it in their dealings with public authorities.

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

421. The Committee recommends that the State party increase its efforts to combat discrimination against indigenous peoples, in particular in the areas of employment, health services, landownership, adequate nutrition, housing and education.

...

INDIGENOUS PEOPLES

423. The Committee urges the State party to increase its efforts to combat unemployment by strengthening technical and professional training programmes and by adopting policies aimed at facilitating investments that create jobs. The Committee encourages the State party to ratify ILO Convention No. 2 (1919).

...

432. The Committee recommends that the State party intensify its programmes and activities to combat poverty and improve the living conditions of the population of Guatemala, in particular of the marginalized and vulnerable groups, including indigenous peoples...

...

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

...

437. The Committee urges the State party to make efforts to increase school attendance of children, particularly of indigenous children. The Committee recommends that the State party broaden its intercultural bilingual education and allocate adequate funds and human resources to the Department of Intercultural Bilingual Education, and improve the working conditions of teachers by paying them better salaries and providing them with training as well as hiring additional teachers to cover rural areas fully.

Notes

...

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

- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 453, 473, 475, 481, 501 and 503.

453. The Committee is concerned about the precarious situation of indigenous communities in the State party, affecting their right to self-determination under article 1 of the Covenant. The Committee notes that the Law of 2001 on Territories of Traditional Natural Resource Use (Small Indigenous Minorities of the North, Siberia and the Russian Far East), which provides for the demarcation of indigenous territories and protection of indigenous land rights, has still not been implemented.

...

473. The Committee is concerned about the general deterioration of the level of availability and accessibility of health care in the State party...Furthermore, the Committee is concerned about the poor health status of northern indigenous peoples, the life expectancy of whom is estimated to be 15-20 years lower than the national average.

...

INDIGENOUS PEOPLES

475. The Committee remains concerned about the high incidence of tuberculosis in the State party, particularly in prisons, in the Republic of Chechnya and in the regions of the Far North, in particular among indigenous communities.

...

481. The Committee, recalling the right to self-determination enshrined in article 1 of the Covenant, urges the State party to intensify its efforts to improve the situation of the indigenous peoples and to ensure that they are not deprived of their means of subsistence. The Committee also encourages the State party to ensure the effective implementation of the Law on Territories of Traditional Natural Resource Use.

...

501. The Committee calls upon the State party to ensure that the ongoing reform of the health sector will improve the quality of, and equitable access to, health services in all regions of the country. The State party should also take effective measures to improve the health status of indigenous peoples in the regions of the Far North.

...

503. The Committee recommends that the State party intensify its efforts to combat tuberculosis, under the special federal programme on urgent measures to tackle tuberculosis for the period 1998-2004, including by ensuring the availability of medicines and adequate sanitary conditions in prisons, and by taking special measures to combat the epidemic in the worst affected regions.

- Ecuador, ICESCR, E/2005/22 (2004) 39 at paras. 277, 278, 290, 292, 294, 297, 298, 300, 301, 315, 317, 319, 323 and 324.

277. The Committee is concerned that, despite the legal framework in place and the growing influence of indigenous grassroots community groups, indigenous people continue to suffer discrimination, particularly with regard to employment, housing, health and education.

278. The Committee is concerned that, although the Constitution recognizes the rights of indigenous communities to hold property communally and to be consulted before natural resources are exploited in community territories, these rights have regrettably not been fully implemented in practice. The Committee is deeply concerned that natural extracting concessions have been granted to international companies without the full consent of the communities concerned. The Committee is also concerned about the negative health and environmental impacts of natural resource extracting companies' activities at the expense of the exercise of land and culture rights of the affected indigenous communities and the equilibrium of the ecosystem.

...

290. The Committee is concerned about trafficking in minors, especially indigenous minors.

...

292. The Committee is deeply concerned about the persistent and growing level of poverty

INDIGENOUS PEOPLES

in the State party, affecting primarily women, children, indigenous and Afro-Ecuadorian communities.

...

294. The Committee is concerned that, despite the constitutional guarantees of the right of the indigenous people to own property communally, the State party does not provide effective protection for the indigenous people against forced evictions from their ancestral lands.

...

297. The Committee is concerned about the high rate of illiteracy and school dropouts in the State party. The Committee is particularly concerned in this regard about the situation of young girls and of indigenous and Afro-Ecuadorian children.

298. The Committee is concerned that, despite the existence of schools and universities where indigenous languages are taught, major indigenous languages, particularly Quechua, are gradually disappearing.

...

300. The Committee recommends that the State party take effective and practical steps to ensure effective protection of indigenous people against discrimination in many fields, especially with regard to employment, housing, health and education...

...

301. The Committee strongly urges the State party to ensure that indigenous people participate in decisions affecting their lives. The Committee particularly requests that the State party consult and seek the consent of the indigenous people concerned prior to the implementation of natural resources-extracting projects and on public policy affecting them, in accordance with ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries. The Committee strongly recommends that the State party implement legislative and administrative measures to avoid violations by transnational countries of environmental laws.

...

315. The Committee urges the State party to take all the appropriate measures to combat the problem of trafficking in minors, including collecting relevant data and statistics and conducting a thorough study on this issue...

...

317. The Committee encourages the State party to intensify its efforts and activities to combat poverty, including the setting up of an antipoverty strategy to improve the living conditions of the disadvantaged and marginalized groups...In this regard, the Committee refers the State party to its statement adopted on 4 May 2001 on poverty and the International Covenant on Economic, Social and Cultural Rights.

...

319. The Committee calls upon the State party to ensure that indigenous people are effectively protected from forced evictions from their ancestral lands and that they are properly compensated, should such evictions take place. In this regard, the Committee

INDIGENOUS PEOPLES

brings to the State party's attention its general comment No. 7 (1997) on the right to adequate housing (article 11, paragraph 1, of the Covenant): forced evictions...

...

323. The Committee urges the State party to take all possible measures to combat illiteracy, particularly amongst the most disadvantaged and marginalized groups...

324. The Committee urges the State party to take all possible measures to ensure that indigenous languages are better protected and that the teaching of these languages in schools is increased as an important part of the enjoyment of the right to culture of the indigenous people.

- Chile, ICESCR, E/2005/22 (2004) 67 at paras. 540, 541, 550, 559-561 and 576.

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

541. The Committee is deeply concerned about the application of special laws, such as the Law on State Security (No. 12.927) and the law that defines terrorist acts and establishes the penalties (No. 18.314), in the context of the current tensions over the ancestral lands in the Mapuche areas.

...

550. Despite the significant progress made over the past years and measures taken under the Solidarity-Based Social Protection System, which targets families living in extreme poverty, the Committee remains concerned about poverty in the State party, especially among indigenous peoples.

...

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

560. The Committee recommends that the State party fully take into consideration the recommendations made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in his report on his mission to Chile (see E/CN.4/2004/80/Add.3) on the implementation of the New Deal Policy with Indigenous Peoples for 2004-2010, namely that the Land Fund be substantially increased; that efforts

INDIGENOUS PEOPLES

to recover indigenous lands be strengthened, especially in Mapuche areas; and that conditions of rural indigenous people be improved, especially in the health and educational sectors

561. The Committee recommends that the State party not apply special laws, such as the Law on State Security (No. 12927) and the law that defines terrorist acts and establishes the penalties (No. 18314), to acts related to the social struggle for land and legitimate indigenous complaints.

...

576. The Committee recommends that the State party continue to strengthen its efforts to reduce poverty, especially among indigenous peoples, and to integrate economic, social and cultural rights in all its poverty alleviation programmes. In this regard, it refers the State party to the Committee's Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights. It also recommends that the State party ensure that adequate resources are allocated towards meeting the goals and targets set under the Solidarity-Based Social Protection System and the Chile Barrio programme.

- Norway, ICESCR, E/2006/22 (2005) 48 at para. 353.

353. The Committee urges the State party to ensure that the Finnmark Bill, currently under consideration by Parliament, gives due regard to the rights of the Sami people to participate in the management and control of natural resources in Finnmark County...

CEDAW

- Fiji, CEDAW, A/57/38 part I (2002) 9 at paras. 48 and 49.

48. The Committee is concerned that the Social Justice Act and the "Blue Print", which proposes affirmative action for the indigenous Fijian population, do not integrate a gender perspective.

49. The Committee recommends that the Social Justice Act and the Blue Print be evaluated for their impact on both ethnicity and gender, to ensure respect for gender equality, and human rights in Fiji's multicultural plural society. The Committee urges the State party to introduce an effective monitoring mechanism to ensure that these programmes conform with fundamental rights guaranteed by the Constitution and the Convention's concept of temporary special measures, and contributes to the elimination of discrimination against all Fijian women.

INDIGENOUS PEOPLES

- Suriname, CEDAW, A/57/38 part II (2002) 82 at paras. 65 and 66.

65. The Committee is concerned about the situation of rural women, in particular the indigenous Amerindians and the Maroons, in the coastal plain and in the interior of Suriname, who are disadvantaged by poor infrastructure, limited markets, obstacles in availability and accessibility of agricultural land and agricultural credit, low literacy rates, ignorance of existing regulations, lack of services and environmental pollution. It notes with concern the serious absence of specific policies in all these areas, including on family planning and preventing the spread of sexually transmitted diseases, including HIV. The Committee is also concerned that women's work in rural areas is not considered productive labour and that they are hardly represented at all in local government bodies...

66. The Committee urges the State party to give full attention to the needs of rural women, including older women, particularly Amerindian and Maroon women, to ensure that they benefit from policies and programmes in all areas, in particular access to health, education, social services and decision-making...

- Guatemala, CEDAW, A/57/38 part III (2002) 171 at paras. 188, 189, 198 and 199.

188. While the Committee welcomes the development by the National Office for Women's Affairs of a methodology for eliminating sexual stereotypes in teaching materials and school textbooks, and the creation of a multisectoral commission for the application of the methodology, it expresses concern at the persistence of stereotypes concerning the role of women in the family and society. It notes that those stereotypes are particularly strong within the indigenous population. The Committee is also concerned that, notwithstanding the various efforts being made to achieve equality between women and men through legislative reform, the execution of gender-sensitive programmes, the training of officials and the creation of national machineries, the persistence of such stereotypes will impede the advancement of women in Guatemala, in particular among indigenous women, and the enjoyment of their human rights.

189. The Committee urges the State party to make the raising of awareness among the general public of the rights of women a priority in its strategy for the advancement of women by building upon existing media campaigns and introducing new awareness-raising and education campaigns on various women's human rights issues. Such campaigns must target men as well as women at all levels of society in particular among the indigenous population.

...

198. The Committee notes with concern the persistence of illiteracy among certain groups of women in Guatemala, particularly among the indigenous population.

199. The Committee calls on the State party to enhance its efforts to combat illiteracy,

INDIGENOUS PEOPLES

especially in the rural areas and among indigenous people, and to develop more programmes to address illiteracy among adult women.

- Argentina, CEDAW, A/57/38 part III (2002) 196 at paras. 356 and 357.

356. The Committee is concerned at the situation of women resulting from the growing increase in poverty, and extreme poverty, which has spread to more than half the population, and which can have a disproportionately heavy impact on the female population. Of special concern are women heads of household who are living in poverty and unemployed, with dependent children, and women from rural areas, indigenous populations and the most vulnerable sectors of the population.

357. The Committee recommends that the State party should pay special, ongoing attention to the situation of women and should take the necessary measures to prevent women, especially those from rural areas, indigenous populations and the most vulnerable sectors of the population, from bearing the heaviest burden of the crisis...

- Mexico, CEDAW, A/57/38 part III (2002) 205 at paras. 433 and 434.

433. The Committee is concerned that while the State party has implemented poverty reduction strategies, poverty constitutes a serious obstacle to enjoyment of rights by women, who make up the majority of the most vulnerable sectors, especially in rural and indigenous areas.

434. The Committee calls on the State party to give priority to women in its poverty eradication strategy, with special attention to women in rural and indigenous areas; in this context, measures and specific programmes should be adopted to ensure that women fully enjoy their rights on an equal footing in the areas of education, employment and health, with special emphasis on joint work with non-governmental organizations and on women's participation not only as beneficiaries, but also as agents of change in the development process.

- Peru, CEDAW, A/57/38 part III (2002) 212 at paras. 494 and 495.

494. Although the Committee recognizes that the State party is taking action in the Amazon region, through the National Institute for Family Well-Being, primarily for children and adolescents living in situations of risk or abandonment, it is concerned that there are no specific programmes for indigenous women.

INDIGENOUS PEOPLES

495. The Committee recommends that the State party should strengthen the current programme and set up specific programmes for indigenous women in order to improve their economic, social and family situation and develop their economic skills, and to promote respect for their rights on an equal footing with men.

- El Salvador, CEDAW, A/58/38 part I (2003) 41 at paras. 261-264.

261. The Committee is concerned at the high level of poverty among women, especially rural and indigenous women.

262. The Committee urges the State party to develop a poverty eradication strategy that gives priority attention to rural and indigenous women through the allocation of budgetary resources, and to take appropriate measures to inform itself about their situation with a view to formulating effective specific programmes and policies to improve their socio-economic situation and ensure that they receive the services and support they need.

263. Although the overall illiteracy rate has declined, the Committee is concerned that the problem persists, especially in rural areas. It is also concerned at the high drop-out rates among girls, especially in rural and indigenous areas.

264. The Committee recommends that efforts to address this problem should be intensified, through sustainable plans and programmes, particularly in rural and indigenous areas.

See also:

- Ecuador, CEDAW, A/58/38 part II (2003) 122 at paras. 319 and 320.
- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 357-362, 377 and 378.

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

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

INDIGENOUS PEOPLES

359. The Committee is concerned about a number of recent changes in British Columbia which have a disproportionately negative impact on women, in particular aboriginal women. Among these changes are: a cut in funds for legal aid and welfare assistance, including changes in eligibility rules; a cut in welfare assistance; the incorporation of the Ministry of Women's Equality under the Ministry of Community, Aboriginal and Women's Services; the abolition of the independent Human Rights Commission; the closing of a number of courthouses; and the proposed changes regarding the prosecution of domestic violence as well as a cut in support programmes for victims of domestic violence.

360. The Committee, through the State party, urges the government of British Columbia to analyse its recent legal and other measures as to their negative impact on women and to amend the measures, where necessary.

361. While appreciating the federal Government's efforts to combat discrimination against aboriginal women, including the pending amendment to the Canadian Human Rights Act, and to achieve substantive equality for them, the Committee is seriously concerned about the persistent systematic discrimination faced by aboriginal women in all aspects of their lives. The Committee is concerned that aboriginal women, among other highly vulnerable groups of women in Canada, are over-concentrated in lower-skill and lower-paying occupations, they constitute a high percentage of those women who have not completed secondary education, they constitute a high percentage of women serving prison sentences and they suffer high rates of domestic violence. The Committee is further concerned that the First Nations Governance Act currently under discussion does not address remaining discriminatory legal provisions under other Acts, including matrimonial property rights, status and band membership questions which are incompatible with the Convention.

362. The Committee urges the State party to accelerate its efforts to eliminate *de jure* and *de facto* discrimination against aboriginal women both in society at large and in their communities, particularly with respect to the remaining discriminatory legal provisions and the equal enjoyment of their human rights to education, employment and physical and psychological well-being. It urges the State party to take effective and proactive measures, including awareness-raising programmes, to sensitize aboriginal communities about women's human rights and to combat patriarchal attitudes, practices and stereotyping of roles. It also recommends to the State party to ensure that aboriginal women receive sufficient funding in order to be able to participate in the necessary governance and legislative processes that address issues which impede their legal and substantive equality.

...

377. While commending the State party's efforts towards bringing aboriginal women into improved income-generating positions, the Committee is concerned that the focus on entrepreneurships may not lead to aboriginal women's economic independence.

378. The Committee recommends that the State party ensure that income-generating

INDIGENOUS PEOPLES

activities for aboriginal women provide for a sustained and adequate income, including all necessary social benefits.

- Costa Rica, CEDAW, A/58/38 part II (2003) 86 at paras. 62, 63, 66 and 67.

62. The Committee notes with concern that although the Constitution guarantees the right to work and the principle of non-discrimination in the employment sphere, norms and practices still exist that discriminate against working women, and that there is a wage gap, to the disadvantage of women, which has greater impact in the private sector than in the civil service; it also notes with concern the precarious working and living conditions of women domestic workers, including migrant workers, as well as of salaried women workers, rural women, women in the informal sector and indigenous women.

63. ...The Committee...requests the State party to adopt the legislative, administrative or other measures needed to ensure that women domestic workers, including migrant workers, temporary wage earners, women in the informal sector and rural and indigenous women have access to social security and other employment benefits, including paid maternity leave.

...

66. The Committee notes with concern that the impact of poverty is greater among women and that the State does not apply the gender perspective in its national activities to combat poverty.

67. The Committee requests the State party to pay specific attention to households headed by women and to groups of women in a vulnerable situation, as well as to rural women, older women, indigenous women and disabled women, in drawing up and implementing programmes to combat poverty, and to seek to ensure their access to production resources, education and technical training.

- Brazil, CEDAW, A/58/38 part II (2003) 93 at paras. 98, 99, 110, 111, 114 and 115.

98. The Committee expresses concern about the wide gap between the constitutional guarantees of equality between women and men and the present *de facto* social, economic, cultural and political situation of women in the State party, which widened with respect to women of African descent and indigenous women.

99. The Committee requests the State party to ensure full implementation of the Convention and constitutional guarantees through comprehensive legislative reform to provide for *de jure* equality and to establish a monitoring mechanism to ensure that the laws are fully implemented. It recommends that the State party ensure that those who are responsible for implementing such laws at all levels be made fully aware of their content.

INDIGENOUS PEOPLES

...

110. The Committee is concerned about the impact of poverty on Brazilian women of African descent, indigenous women, female heads of household and other socially excluded or marginalized groups of women and about their disadvantaged position with respect to access to education, health, basic sanitation, employment, information and justice.

111. The Committee urges the State party to ensure that its poverty eradication measures give priority attention to Brazilian women of African descent, indigenous women, female heads of household and other socially excluded or marginalized groups of women through adequately funded programmes and policies addressing their specific needs.

...

114. The Committee is concerned about reports that indigenous women are being sexually abused by military units and prospectors (gold miners) on indigenous lands. The Committee notes that the Government is considering developing a code of conduct to regulate the presence of the armed forces on indigenous lands.

115. The Committee calls upon the State party to take necessary measures to raise awareness of the situation of indigenous women and girls and ensure that sexual violence against them is prosecuted and punished as a grave crime. It also urges the State party to adopt preventive measures, including swift disciplinary inquiries and human rights education programmes for the armed forces and law enforcement personnel.

- Ecuador, CEDAW, A/58/38 part II (2003) 122 at paras. 303, 304, 307 and 308.

303. Although the Committee welcomes the establishment of the National Council for Women by executive decree in 1997, it is concerned at the lack of a law institutionalizing the Council and regulating its normative capability, operations and financing. It is also concerned that this body does not have an explicit mandate allowing it to guarantee, and require from the different sectors of government, the enforcement of laws, plans and programmes for gender equality, and that a Director still has not been appointed. The Committee is also concerned that the participation of civil society organizations in the Council could be weakened and that movements of indigenous women and women of African descent are still not represented.

304. The Committee urges the State party to strengthen the regulatory and normative role of the National Council for Women by adopting a law institutionalizing and regulating its activities and giving it a more active role in monitoring the enforcement of standards to promote gender equality, and to allocate to it the financial resources necessary for its operation and the exercise of its functions. Furthermore, the Committee encourages the State party to appoint a director to head the National Council for Women. The Committee encourages the State party to ensure the participation of civil society in the Council and to

INDIGENOUS PEOPLES

promote the participation of movements of indigenous women and women of African descent.

...

307. The Committee is concerned at the high levels of poverty and extreme poverty among women, and notes in particular the situation of rural and indigenous women. Despite the existence of isolated anti-poverty plans, the Committee is concerned at the lack of a general and comprehensive poverty eradication policy specifically targeting rural and indigenous women.

308. The Committee urges the State party to develop a general poverty eradication policy incorporating a gender perspective and focusing particularly on rural and indigenous women.

- New Zealand, CEDAW, A/58/38 part II (2003) 138 at paras. 423 and 424.

423. While recognizing the State party's efforts to address the needs of Maori and Pacific women and girls through the "Reducing Inequalities" programme, the Committee is concerned that the situation of Maori and Pacific women and girls remains unsatisfactory in many areas, particularly with regard to employment, political participation, decision-making positions in the public and private sector, the judiciary and tertiary education and economic independence. The Committee is also concerned about Maori and Pacific women and girls' unfavourable health situation, including their limited access to health care and their high mortality rate as well as the high incidence of domestic violence and of arranged marriages. The Committee is also concerned that the Human Rights Act, 1993, does not explicitly cover non-discrimination on the basis of language and the cultural field, which are of particular relevance to Maori and Pacific women.

424. The Committee urges the State party to continue to implement the "Treaty of Waitangi" and to monitor the impact of measures taken through the "Reducing Inequalities" programme on Maori and Pacific women and girls, in particular in the social, economic and political areas and in criminal justice. It also recommends that the State party implement targeted measures to respond to the needs of Maori and Pacific women and girls, and to continue to invest in Maori and Pacific women and girls, taking into account their linguistic and cultural interests.

- Paraguay, CEDAW, A/60/38 part I (2005) 44 at paras. 291 and 292.

291. The Committee is concerned about the poor conditions of indigenous women, including monolingual Guaraní women, reflected in their high illiteracy rates, which surpass the national average, low school enrolment rates, poor access to health care and significant levels of poverty, which lead them to migrate to urban centres where they are even more

INDIGENOUS PEOPLES

vulnerable to multiple forms of discrimination.

292. The Committee urges the State party to ensure that all policies and programmes explicitly address the high illiteracy rates and the needs of indigenous women, including monolingual Guaraní women, and to actively seek their participation in the formulation and implementation of sectoral policies and programmes. It recommends that the State party strengthen its efforts to implement bilingual educational programmes at all levels of education and to ensure indigenous women's access to education and health care. The Committee also encourages the State party to adopt temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 on temporary special measures, to accelerate such access for indigenous women. The Committee recommends that the State party strengthen its programmes of dissemination, education and training on the Convention and its Optional Protocol for indigenous women, including monolingual Guaraní women.

CAT

- New Zealand, CAT, A/59/44 (2004) 61 at para. 133.

133. The Committee notes with appreciation:

...

(g) The efforts undertaken to promote a positive relationship between the police and Maori;

...

- Argentina, CAT, A/60/44 (2004) 12 at paras. 34 and 35.

34. The Committee expresses its concern at the following:

...

(g) Allegations of torture and ill-treatment of certain other vulnerable groups, such as members of the indigenous communities, sexual minorities and women;

...

35. The Committee recommends that the State party take all necessary steps to prevent acts of torture and ill-treatment in the territory of the State of Argentina, and in particular that it:

...

(f) Take specific steps to safeguard the physical integrity of the members of all vulnerable groups;

...

- Canada, CAT, A/60/44 (2005) 25 at para. 56.

INDIGENOUS PEOPLES

56. The Committee notes:

...

(h) The efforts made by the State party, in response to the issue of overrepresentation of indigenous offenders in the correctional system previously identified by the Committee, to develop innovative and culturally sensitive alternative criminal justice mechanisms, such as the use of healing lodges.

CRC

- Chile, CRC, CRC/C/114 (2002) 90 at paras. 367-370.

367. The Committee expresses its concern at the inefficiency of projects financed by the National Fund for Disability, owing to inadequate funds and modalities. The Committee is also concerned at the general lack of resources and specialized staff for these children, especially the ones with mental disabilities, in particular in rural areas and for indigenous children...

368. In light of article 23 of the Convention, the Committee recommends that the State party:

...

(c) Conduct public awareness campaigns in all languages, in particular indigenous ones, to raise awareness of the situation and the rights of children with disabilities;

...

369. The Committee, while noting the increase in the school attendance rate, expresses its concern at the difficult access to education, high drop-out and repetition rates which affect in particular indigenous children, poor children and the ones living in rural areas; the low enrolment rate for pre-school education; the low rate of children reaching secondary education and the treatment of children with behavioural problems...

370. In light of articles 28 and 29 of the Convention, the Committee recommends that the State party:

(a) Ensure regular attendance at school and the reduction of drop-out rates, especially with regard to indigenous children;

...

See also:

- Guatemala, CRC, CRC/C/108 (2001) 47 at para. 266.

INDIGENOUS PEOPLES

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 71, 72, 81 and 82.

71. While noting the decrease in the infant, child and maternal mortality rates, the Committee is nevertheless concerned that the rates remain high and that there are great disparities in these rates, in particular with regard to children from a lower socio-economic background, those living in rural areas, in particular in the northern provinces, and indigenous children. It also notes that 6 out of 10 infant deaths could be avoided by low-cost actions.

72. The Committee recommends that the State party:

(a) Allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of all children without discrimination, in particular by focusing more on health promotion and prevention;

(b) In order to further decrease child mortality and morbidity and maternal mortality rates, take measures to implement the Reproductive Health and Responsible Procreation Act of July 2000;

(c) Provide adequate antenatal and post-natal health-care services and develop campaigns to inform parents about basic child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, family planning and reproductive health, especially in the provinces.

...

81. The Committee, while noting the increase in school enrolment for both primary and secondary education, remains concerned at the limited access to education and at the high drop out and repetition rates, especially at secondary school level, which affect, in particular, children from marginalized urban and rural areas, indigenous children and children from migrant families, particularly illegal migrants...

82. In light of articles 28 and 29 of the Convention, the Committee recommends that the State party:

...

(b) Enforce the Social Plan of Education in order to ensure regular attendance at school and the reduction of drop out rates, especially with regard to the most vulnerable children;

...

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 56, 57, 71, 72, 74-76, 84-87, 94, 95, 108 and 109.

56. The Committee notes the efforts of the Government towards the removal of the

INDIGENOUS PEOPLES

reservation to article 37 (c) of the Convention, but regrets the rather slow process and regrets even more the statement made by the delegation that the State party does not intend to withdraw its reservation to article 21. The Committee reiterates its concern with respect to the reservations maintained by the State party to articles 21 and 37 (c).

57. In light of the 1993 Vienna Declaration and Programme of Action, the Committee urges the State party to reconsider and expedite the withdrawal of the reservations made to the Convention. The Committee invites the State party to continue its dialogue with the Aboriginals with a view to the withdrawal of the reservation to article 21 of the Convention.

...

71. The Committee notes positive developments with respect to measures to promote and protect cultural diversity and specific legislative measures regarding discrimination... However, the Committee joins CERD in its concerns, in particular as they relate to children, such as those relating to the Indian Act, to the extent of violence against and deaths in custody of Aboriginals and people of African and Asian descent...

72. The Committee recommends that the State party continue to strengthen its legislative efforts to fully integrate the right to non-discrimination (article 2 of the Convention) in all relevant legislation concerning children, and that this right be effectively applied in all political, judicial and administrative decisions and in projects, programmes and services that have an impact on all children, in particular children belonging to minority and other vulnerable groups such as children with disabilities and Aboriginal children. The Committee further recommends that the State party continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes and practices...

...

74. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of all legislation, programmes and policies concerning children and is aware of the progress made in this respect. However, the Committee remains concerned that the principle that primary consideration should be given to the best interests of the child is still not adequately defined and reflected in some legislation, court decisions and policies affecting certain children, especially those facing situations of divorce, custody and deportation, as well as Aboriginal children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

75. The Committee recommends that the principle of “best interests of the child” contained in article 3 be appropriately analysed and objectively implemented with regard to individual and groups of children in various situations (e.g. Aboriginal children) and integrated in all reviews of legislation concerning children, legal procedures in courts, as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children. The Committee encourages the State party to ensure that research and

INDIGENOUS PEOPLES

educational programmes for professionals dealing with children are reinforced and that article 3 of the Convention is fully understood, and that this principle is effectively implemented.

76. The Committee is encouraged...by the establishment of the First Nations Child and Family Service providing culturally sensitive services to Aboriginal children and families within their communities.

...

84. The Committee is encouraged by the commitment of the Government to strengthening health care for Canadians by, *inter alia*, increasing the budget and focusing on Aboriginal health programmes. However, the Committee is concerned at the fact, acknowledged by the State party, that the relatively high standard of health is not shared equally by all Canadians. It notes that equal provincial and territorial compliance is a matter of concern, in particular as regards universality and accessibility in rural and northern communities and for children in Aboriginal communities. The Committee is particularly concerned at the disproportionately high prevalence of sudden infant death syndrome and foetal alcohol syndrome disorder among Aboriginal children.

85. The Committee recommends that the State party undertake measures to ensure that all children enjoy equally the same quality of health services, with special attention to indigenous children and children in rural and remote areas.

86. The Committee is encouraged by the average decline in infant mortality rates in the State party, but is deeply concerned at the high mortality rate among the Aboriginal population and the high rate of suicide and substance abuse among youth belonging to this group.

87. The Committee suggests that the State party continue to give priority to studying possible causes of youth suicide and the characteristics of those who appear to be most at risk, and take steps as soon as practicable to put in place additional support, prevention and intervention programmes, e.g. in the fields of mental health, education and employment, that could reduce the occurrence of this tragic phenomenon.

...

94. The Committee values the exemplary literacy rates and high level of basic education in the State party and welcomes the numerous initiatives to promote quality education, both in Canada and at the international level. The Committee is in particular encouraged by initiatives to raise the standard of education of Aboriginals living on reserves...Furthermore, the Committee is concerned about the reduction in education spending, increasing student-teacher ratios, the reduction of the number of school boards, the high dropout rate of Aboriginal children and the availability of instruction in both official languages only "where numbers warrant".

INDIGENOUS PEOPLES

95. The Committee recommends that the State party further improve the quality of education throughout the State party in order to achieve the goals of article 29, paragraph 1, of the Convention and the Committee's general comment No. 1 on the aims of education by, *inter alia*:

(a) Ensuring that free quality primary education that is sensitive to the cultural identity of every child is available and accessible to all children, with particular attention to children in rural communities, Aboriginal children and refugees or asylum-seekers, as well as children from other disadvantaged groups and those who need special attention, including in their own language;

...

108. The Committee welcomes the Statement of Reconciliation made by the Federal Government expressing Canada's profound regret for historic injustices committed against Aboriginal people, in particular within the residential school system. It also notes the priority accorded by the Government to improving the lives of Aboriginal people across Canada and by the numerous initiatives, provided for in the federal budget, that have been embarked upon since the consideration of the initial report. However, the Committee is concerned that Aboriginal children continue to experience many problems, including discrimination in several areas, with much greater frequency and severity than their non-Aboriginal peers.

109. The Committee urges the Government to pursue its efforts to address the gap in life chances between Aboriginal and non-Aboriginal children. In this regard, it reiterates in particular the observations and recommendations with respect to land and resource allocation made by United Nations human rights treaty bodies, such as the Human Rights Committee (CCPR/C/79/Add.105, para. 8), the Committee on the Elimination of Racial Discrimination (A/57/18, para. 330) and the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, para. 18). The Committee equally notes the recommendations of the Royal Commission on Aboriginal Peoples and encourages the State party to ensure appropriate follow-up.

- New Zealand, CRC, CRC/C/133 (2003) 34 at paras. 147, 148, 153 and 154.

147. The Committee... notes with concern that child health indicators are generally lower among the Maori population.

148. The Committee recommends that the State party:

...

(c) Take all necessary measures to address disparities in health indicators between ethnic communities, in particular the Maori population.

...

INDIGENOUS PEOPLES

153. The Committee is concerned that a significant proportion of children in the State party live in poverty and that single-parent families headed by women, as well as Maori and Pacific Island families, are disproportionately affected.

154. In accordance with article 27, paragraph 3, of the Convention, the Committee recommends that the State party take appropriate measures to assist parents, in particular single parents, and others responsible for the child to implement the child's right to an adequate standard of living. In this regard, the Committee recommends that the State party ensure that assistance provided to Maori and Pacific Island families respects and supports their traditional extended family structures.

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 511 and 512.

511. The Committee is deeply concerned about the poor situation of children of the Chittagong Hill Tracts, and other religious, national and ethnic minorities, tribal groups or similar marginalized groups and the lack of respect for their rights, including the rights to food, to health care, to education and to survival and development, to enjoy their own culture and to be protected from discrimination.

512. The Committee urges the State party to gather additional information on all minorities or similar marginalized groups of the population, and to elaborate policies and programmes to ensure the implementation of their rights without discrimination, taking into account the Committee's recommendations adopted at its day of general discussion on the theme "The rights of indigenous children".

- Guyana, CRC, CRC/C/137 (2004) 26 at paras. 172 and 173.

172. The Committee is concerned at the living conditions of Amerindian children with regard to the full enjoyment of all rights enshrined in the Convention, especially the degradation of their natural environment and the fact that they are not taught in their own languages.

173. In light of articles 2 and 30 of the Convention and the recommendations adopted by the Committee at its day of general discussion on the rights of indigenous children in September 2003, the Committee recommends that the State party take all necessary measures to protect Amerindian children against discrimination and to guarantee their enjoyment of all the rights recognized in the Convention. The Committee also recommends that the current revision of the Amerindian Act reflect the provisions and principles of the Convention.

INDIGENOUS PEOPLES

- India, CRC, CRC/C/137 (2004) 75 at paras. 403, 404, 459 and 460.

403. In light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by girls, children living in certain states, rural areas and slums, and children belonging to certain castes and tribal and indigenous groups.

404. The Committee recommends that concerted efforts at all levels be taken to address social inequalities by reviewing and reorienting policies, including increasing budgetary allocations for programmes targeting the most vulnerable groups, and that technical assistance be sought from, among others, UNICEF.

...

459. The Committee is concerned at the situation of children belonging to minorities, including to the Primitive Tribal Groups, and at their limited access to social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.

460. In addition to its recommendation in paragraph 406, and in line with the recommendations made at its day of general discussion on the rights of indigenous children (CRC/C/133, para. 624), the Committee recommends that the State party implement and/or give the necessary follow-up to the recommendation made by the Standing Committee on Labour and Welfare on the Development of Primitive Tribal Groups (2002).

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 47 and 48.

47. The Committee is concerned at the persistent discrimination faced in the State party by indigenous children, children with disabilities and girls.

48. In light of article 2 of the Convention, the Committee recommends that the State party intensify its efforts to prevent and eliminate all forms of *de facto* discrimination against indigenous children, children with disabilities and girls.

- Panama, CRC, CRC/C/140 (2004) 23 at paras. 156 and 157.

156. The Committee, acknowledging the adoption of the new legislation creating three indigenous *comarcas*, remains concerned that lack of economic resources is an obstacle to developing specific programmes on education, health and social services for indigenous

INDIGENOUS PEOPLES

children. The Committee is also concerned about the preservation of the identity of indigenous children since bilingual education remains a challenge in indigenous areas and education lacks resources of all kinds.

157. The Committee recommends that the State party take all necessary measures to ensure that indigenous children enjoy all their rights without discrimination, including equal access to culturally appropriate services including health, education, social services, housing, potable water and sanitation. The Committee also recommends that the State party, with the full participation of indigenous communities and children, develop public awareness campaigns, including through the mass media, to combat negative attitudes and misperceptions about indigenous children. The Committee also recommends that the State party pay particular attention to guarantee the preservation of the identity of indigenous and Afro-Panamanian children, e.g. by the implementation of the national plan to develop bilingual intercultural education.

- Myanmar, CRC, CRC/C/140 (2004) 81 at paras. 453 and 454.

453. The Committee is deeply concerned about the situation of the children of the Bengali people residing in northern Rakhine State, also known as the Rohingyas, and of children belonging to other ethnic, indigenous or religious minorities and in particular that many of their rights are denied, including the rights to food, to health care, to education, to survival and development, to enjoy their own culture and to be protected from discrimination.

454. The Committee urges the State party to gather additional information on all ethnic minorities and other marginalized groups and to elaborate policies and programmes to fully ensure the implementation of their rights without discrimination, taking into account the Committee's recommendations on the rights of indigenous children made at its day of general discussion (CRC/C/133, para. 624).

- Brazil, CRC, CRC/C/143 (2004) 10 at paras. 96-98.

96. The Committee welcomes the fact that social organization, customs, languages, creeds and traditions are recognized to indigenous communities in the Constitution of 1988. However, as noted by the State party, the Indian Statute promotes for an integration which is not in accordance with the principle of respect for diversity of cultures. The Committee also welcomes the fact that, according to law 10.406/02, indigenous people are no longer considered "relatively incapable citizens". It also welcomes the efforts made by the State party to stimulate bilingual education. However, the Committee is deeply concerned by the low standard of living of indigenous children, low educational opportunities and quality of health services, and malnutrition.

INDIGENOUS PEOPLES

97. The Committee urges the State party to pursue measures to effectively address the gap in life opportunities of indigenous children. Training and awareness-raising activities should be provided to break social prejudice, in order to revert the historical logic of colonization, which jeopardizes any chance of attaining genuinely equal treatment.

98. The Committee also recommends that the State party take adequate measures in order to provide protection for the rights of indigenous children, in particular their rights to preserve historical and cultural identity, customs, traditions and languages in accordance with the Constitution, and taking into account the recommendations adopted by the Committee on its day of general discussion on the rights of indigenous children in September 2003.

- Belize, CRC, CRC/C/146 (2005) 59 at paras. 364 and 365.

364. With regard to children belonging to minorities and indigenous peoples, such as Maya and Garifuna children, the Committee is concerned about the widespread poverty among them and the limited enjoyment of their rights, particularly concerning their access to social and health services and education. The Committee notes with concern that it is generally difficult for girls belonging to minorities and indigenous peoples to be heard in society and that their right to participate and to be heard in proceedings affecting them is often limited.

365. The Committee recommends that the State party strengthen its efforts to improve the equal enjoyment of all rights of children belonging to minorities and indigenous peoples, in particular, by prioritizing effective measures to reduce poverty among them. The Committee also recommends that the State party take measures to promote respect for the views of children, especially girls, belonging to minorities and indigenous peoples and facilitate their participation in all matters affecting them.

- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 618, 619, 624, 625, 640 and 641.

618. The Committee is deeply concerned about the significant disparities in the State party in the implementation of the rights enshrined in the Convention, reflected in a range of social indicators like enrolment in and completion of education, infant mortality rates and birth registration, indicating persistent discrimination against indigenous children, girls, children with disabilities and children living in rural areas.

619. In light of article 2 of the Convention, the Committee recommends that the State party intensify its efforts to prevent and eliminate all forms of *de facto* discrimination against indigenous children, children with disabilities, girls and children living in rural areas.

...

INDIGENOUS PEOPLES

624. While noting the efforts made by the State party to ensure that all births are registered and that all children are issued birth certificates, the Committee is concerned that a large number of children in the State party do not have a birth certificate. It also notes with concern the large proportion of indigenous children who are not registered with the Civil Registry.

625. The Committee recommends that the State party strengthen its efforts to ensure that children are registered at birth and organize, through special measures and in accordance with the law, the registration of children who were not registered at birth, giving special attention to indigenous children, including by providing for such registration free of charge. The Committee also recommends that the State party undertake efforts to raise awareness of the importance of birth registration for children for the full enjoyment of their rights.

...

640. The Committee welcomes the improvement of primary health-care coverage, including the basic health insurance scheme (SUMI) that provides free medical care for children up to 5 years of age and their mothers. The Committee is concerned, however, that not all children, especially indigenous children, benefit from SUMI...

641. The Committee recommends that the State party continue to strengthen its efforts in improving the health situation of children in the State party and their access to quality health services in all areas of the country, particularly rural areas. It also recommends that the State party take measures to ensure that all children benefit from SUMI...

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 123, 124, 136, 137, 171, 173 and 195-197.

123. Notwithstanding the measures taken by the State party to eliminate discrimination against children, *inter alia*, through the implementation of the provisions of the Child and Youth Welfare Code (Presidential Decree No. 603), the Family Code and the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act and several programmes, such as the Third Elementary Education Programme, the Committee is concerned about discrimination faced by many children, in particular children living in poverty, children with disabilities, indigenous and minority children, including Muslim children living in Mindanao, migrant children, street children and children living in rural areas as well as children living in areas of conflict, as regards their access, *inter alia*, to social and health services and education...

124. In the light of article 2 of the Convention, the Committee recommends that the State party increase its efforts to ensure effective implementation of existing laws guaranteeing the principle of non-discrimination and adopt a proactive and comprehensive strategy to eliminate all forms of discrimination, including forms of multiple discrimination, against all vulnerable groups of children...

INDIGENOUS PEOPLES

...

136. While noting the estimated increase in the birth registration rate and the measures taken by the State party in this respect, including the Unregistered Children Project conducted in collaboration with PLAN International and the National Statistics Office, the Committee remains concerned at the difficulties in ensuring timely birth registration of children, in particular children belonging to religious or other minority groups or indigenous peoples and children living in the remote areas of the country and at the fact that birth registration is not free of charge and not equally accessible to all parents in the entire territory of the State party...

137. In order to secure the full enjoyment of all human rights and fundamental freedoms by children and to achieve 100 per cent birth registration, the Committee recommends that the State party strengthen its efforts to develop an efficient and at all stages free of charge birth registration system, which covers its territory fully, including through using more effectively mobile birth registration units to reach the most remote areas of its territory. The Committee requests the State party to pay particular attention to improved access to an early birth registration for parents whose children were born out of wedlock and parents belonging to religious or other minorities or indigenous peoples.

...

171. The Committee takes note of the State party's efforts to improve the standard and aims of education, including by implementing the new school curricula for elementary and secondary schools, and the curriculum for early childhood, the Education for All Programme of Action and the Child-friendly School System, in collaboration with UNICEF. Notwithstanding these positive steps taken, the Committee remains gravely concerned that there still remain *barangays* which are not able to provide children with elementary education and there are several vulnerable groups of children, such as children living in poverty, children with disabilities, child labourers, children in armed conflict, indigenous children, children infected with, or affected by, HIV/AIDS and street children, without equal access to elementary education...

...

173. In the light of articles 28 and 29 of the Convention and the Committee's general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party allocate adequate financial, human and technical resources in order to:

...

(b) Urgently take all necessary measures to ensure universal and free primary education for all and pay particular attention to the schooling opportunities in the most remote *barangays* and to the educational needs of children belonging to vulnerable groups, such as children living in poverty, children with disabilities, indigenous children, child labourers, children in armed conflict, children infected with or affected by HIV/AIDS and street children, in order to fulfil their right to education;

...

(f) Provide indigenous children and children belonging to minority groups with equal access

INDIGENOUS PEOPLES

to quality education which respects their distinct cultural patterns and uses local indigenous and minority languages in education through, inter alia, the Lingua Franca Project;

...

195. While noting the provisions of the Indigenous Peoples Rights Act (Republic Act No. 8371) as well as programmes and projects for children belonging to minorities and indigenous peoples, such as an alternative system of education for children belonging to indigenous cultural communities, the Childcare Development Programme and the Lingua Franca Project, the Committee is concerned about the widespread poverty among minorities and indigenous peoples and the limited enjoyment of their human rights, in particular, concerning their access to social and health services and education. The Committee shares the State party's concern about arranged early marriage in the indigenous communities...

196. The Committee recalls the obligations of the State party under articles 2 and 30 of the Convention and recommends that the State party ensure that indigenous children and children belonging to minorities fully enjoy all of their human rights equally and without discrimination. In this respect the Committee recommends that the State party strengthen its efforts to implement the Indigenous Peoples Rights Act (Republic Act No. 8371) and develop and implement policies and programmes in order to ensure equal access for indigenous and minority children to culturally appropriate services, including social and health services and education. Furthermore, the Committee recommends that the State party strengthen its mechanisms for data collection on minority and indigenous children so as to identify existing gaps and barriers to the enjoyment of their human rights and with a view to developing legislation, policies and programmes to address such gaps and barriers.

197. As regards the child's right to use his/her own language, the Committee encourages the State party to continue its efforts to address the linguistic needs of indigenous and minority children. In addition, the Committee recommends that the State party seek, in close collaboration with indigenous and minority communities and their respective leaders, effective measures to abolish traditional practices prejudicial to the health and well-being of indigenous and minority children, such as early marriage.

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 316 and 318.

316. While noting that discrimination is prohibited under the Constitution and other relevant legislation, as well as the various efforts undertaken by the State party to eliminate discrimination, the Committee reiterates its deep concerns about the widely prevailing *de facto* discrimination against girls and children belonging to the most vulnerable groups such as the *Dalit* community, children belonging to indigenous or ethnic minority groups, refugee and asylum-seeking children, street children, children with disabilities and children living in rural areas. The Committee notes with grave concern that as a consequence of prevailing discriminatory attitudes, children belonging to vulnerable groups are particularly likely to

INDIGENOUS PEOPLES

fall victim to abuse and exploitation.

...

318. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the right to non-discrimination, and to adopt appropriate legislation, where necessary, to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. In this regard, the Committee urges the State party to prioritize and target social services for children belonging to the most vulnerable groups, and to take all effective measures to ensure their protection from exploitation. The Committee encourages the State party to launch comprehensive public information campaigns to prevent and combat all forms of discrimination.

- Ecuador, CRC, CRC/C/150 (2005) 91 at paras. 414, 415, 443, 444, 459 and 460.

414. The Committee reiterates the concern voiced by the Committee on the Elimination of Racial Discrimination (CERD/C/62/CO/2, para. 11) that, despite constitutional and legal guarantees, indigenous and Afro-Ecuadorian people, as well as members of other ethnic minorities are, *de facto*, still discriminated against...

415. The Committee urges the State party to take adequate measures to ensure practical application of the constitutional and legal provisions guaranteeing the principle of non-discrimination and the full compliance with article 2 of the Convention and to strengthen and effectively implement its national strategies to eliminate discrimination on any grounds and against all vulnerable groups.

...

443. The Committee joins the concern expressed by the Committee on Economic, Social and Cultural Rights (see E/C.12/1/Add.100, para. 26) with regard to the persistent and growing level of poverty in the State party, particularly affecting children, including indigenous and Afro-Ecuadorian children.

444. The Committee recommends that the State party increase its effort to provide vulnerable and marginalized children, including indigenous and Afro-Ecuadorian children, with material assistance and support programmes, particularly with regard to nutrition, clothing and housing in accordance with article 27 of the Convention.

...

459. The Committee takes note of the various measures undertaken by the State party with regard to indigenous children, including the implementation of the bilingual intercultural education system. However, the Committee remains concerned about the limited enjoyment of rights by indigenous children, particularly with regard to access to education and health due to widespread poverty. It is also concerned that indigenous children:

INDIGENOUS PEOPLES

- (a) Begin to work in agricultural and domestic activities at 5 years of age for boys and 4 years for girls;
- (b) Are subjected to punishment, including forms of public shaming; and
- (c) Are often victims of sexual abuse.

460. The Committee recommends that the State party take all necessary measures to protect the rights of indigenous children against discrimination and to guarantee their enjoyment of the rights enshrined in domestic law and in the Convention. In this regard, the Committee refers the State party to its recommendations adopted following its day of general discussion on the rights of indigenous children at its thirty-fourth session in 2003. The Committee further recommends that the State party provide indigenous communities, including children with sufficient information regarding birth registration procedures, child labour, HIV/AIDS, child abuse and neglect, including corporal punishment.

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 617, 618, 665 and 666.

617. The Committee is concerned that the country's adult-centred culture and the high poverty levels, concentrated especially in rural, indigenous and Caribbean areas, prevent the full enjoyment of rights by children belonging to vulnerable groups, such as children with disabilities, indigenous children and children living in rural or remote areas.

618. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups throughout the country.

...

665. The Committee notes with concern that, despite constitutional recognition of indigenous customary rights, indigenous communities still suffer from institutional neglect, historic abandonment and indiscriminate pillaging of natural resources, especially in the Caribbean region.

666. The Committee recommends that the State party pursue measures to effectively address the gap in life opportunities of indigenous children, and take adequate measures in order to provide protection for the rights of indigenous children as protected in the Constitution, taking due account of the recommendations adopted by the Committee at its day of general discussion on the rights of indigenous children in September 2003.

INDIGENOUS PEOPLES

- Costa Rica, CRC, CRC/C/150 (2005) 149 at paras. 687, 688, 714, 715, 726 and 727.

687. The Committee welcomes the elaboration of the first National Development Plan for Costa Rica's Indigenous People, the translation into indigenous languages of the Childhood and Adolescence Code, the Law against Domestic Violence and the Law on Responsible Paternity, as well as the incorporation of the rights of indigenous people into the National Plan for Children and Adolescents. The Committee is concerned however at the limited access of indigenous children, migrant children and those living in rural areas, to basic education and health services, and at their low standard of living...

688. The Committee encourages the State party to continue to pay due attention to the needs of indigenous people by taking appropriate measures to address the high rate of infant mortality among the indigenous communities, and to substantially increase their level of education and standard of living, and endorses the recommendation of the Committee on the Elimination of Racial Discrimination in that regard (CERD/C/60/CO/3, para. 11)...

...

714. ...The Committee takes note of new projects which provide opportunities of education for children who have left school before completion. Although courses and institutions for technical and vocational training were expanded, the Committee regrets that not more children between the ages of 15 and 18 receive vocational training in order to facilitate their transition to qualified labour, and the low completion rate of secondary school, in particular in rural areas, especially of deprived children and indigenous children, as well as the lack of school infrastructure in remote areas of the country.

715. The Committee recommends that the State party continue to take effective measures to increase enrolment in primary and secondary school, reduce the high rate of drop-out students and repeaters, in particular in rural areas, and find ways to address the lack of school infrastructure in these areas, *inter alia* by finding alternative educational methods, e.g. vocational and apprenticeship programmes, which would take the specific needs of these populations into consideration. The State party should focus on the improvement of secondary education.

...

726. With respect to indigenous communities, the Committee takes note of the State party's efforts to increase the number of schools providing bilingual education. It is however concerned at the insufficient number of indigenous teachers and schools, and at the fact that education does not fully take into account indigenous culture.

727. The Committee recommends that the State party continue to increase the number of indigenous schools and adequately trained indigenous teachers, and ensure the right of indigenous children to learn to read and write in their own language through methods adapted to their own culture. The Committee recommends that the State party provide relevant information to indigenous children and their communities on, *inter alia*, birth

INDIGENOUS PEOPLES

registration procedures, reproductive health, HIV/AIDS, child abuse and neglect, child labour and sexual exploitation in order to raise awareness of their rights. The Committee further recommends that the State party strengthen mechanisms for the collection of data on children so as to identify existing gaps and barriers to the enjoyment of human rights by indigenous children, and with a view to developing legislation, policies and programmes to address such gaps and barriers.