

LEAVE OR RETURN - RIGHT TO

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Croatia, CERD, A/57/18 (2002) 24 at para. 99.

99. While noting the challenges confronted by the State party in meeting the needs of large numbers of refugees, returnees and displaced persons, the Committee is concerned that return is still hindered by legal and administrative impediments and hostile attitudes adopted by some central and local officials. In this regard, concern is further expressed about allegations of inconsistency and lack of transparency in the National Programme for Return. The Committee is particularly concerned about the insufficient efforts of the State party to prevent discrimination against minorities, especially Croatian Serbs, in addressing issues of restitution of property, tenancy and occupancy rights, reconstruction assistance, as well as the inter-related issues of residency and citizenship rights. The Committee recommends that the State party introduce further measures to ensure fairness, consistency and transparency in the National Programme for Return. Further, the State party is strongly urged to take effective measures to prevent discrimination, especially against Croatian Serbs, particularly as regards the restitution of their property, tenancy and occupancy rights, access to reconstruction assistance and rights to residency and citizenship...The Committee draws the attention of the State party to its general recommendation XXII concerning the rights of refugees and displaced persons.

- Mauritania, CERD, A/59/18 (2004) 61 at para. 344.

344. The Committee notes with concern that, according to some reports, several thousand black Mauritanian refugees remain in Mali and Senegal. It remains concerned at reports that many of the refugees who have returned to Mauritania have not recovered their property or their jobs.

The Committee recommends that the State party take practical measures to encourage the return of black Mauritanian refugees remaining in Mali and Senegal and their full reintegration into Mauritanian society...

- Georgia, CERD, A/60/18 (2005) 46 at para. 243.

243. While acknowledging the commitment of the State party to repatriate and integrate Meskhetians who were expelled from Georgia in 1944 as well as the recent establishment of a State Commission on the Repatriation of Meskhetians, the Committee notes with concern that no specific measures have yet been taken to address this issue (art. 5).

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The Committee recommends that the State party...take the appropriate measures to facilitate their return and their acquisition of Georgian citizenship, including the adoption of the necessary framework legislation to this effect, which has been under drafting since 1999.

- Turkmenistan, CERD, A/60/18 (2005) 61 at para. 325.

325. ...While taking note of the abolition of the exit visa in 2004, [the Committee] remains concerned about the reported impediments imposed on Turkmen students wishing to study abroad (art. 7).

...The Committee...recommends that the State party allow students to study abroad and that it provide detailed information on the actual regulations and practices relating to the recognition of foreign degrees.

ICCPR

- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), ICCPR, A/57/40 vol. I (2002) 36 at para. 75(38).

(38) Although [the British Indian Ocean Territory] was not included in the State party's report (and the State party apparently considers that, owing to an absence of population, the Covenant does not apply to this territory), the Committee takes note of the State party's acceptance that its prohibition of the return of Ilois who had left or been removed from the territory was unlawful.

The State party should, to the extent still possible, seek to make exercise of the Ilois' right to return to their territory practicable. It should consider compensation for the denial of this right over an extended period...

- New Zealand, ICCPR, A/57/40 vol. I (2002) 63 at para. 81(12).

(12) The Committee is concerned at information that permanent residents of New Zealand and, under certain conditions, even some citizens need a return visa to re-enter New Zealand, as this may raise issues under article 12, paragraph 4, of the Covenant.

The State party should review its legislation to ensure compliance with article 12, paragraph 4, of the Covenant.

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- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at para. 65(21).

(21) The Committee is concerned about the social and economic situation of the Roma minority and its impact on the full enjoyment of their rights under the Covenant, as well as the potentially negative effect on them of the present regulations regarding the entry of ethnic origin in passports and identity documents. (arts. 2, 26 and 27).

The State party should take steps to remove obstacles to the practical enjoyment by the Roma of their rights under the Covenant, and, in particular, abolish the provisions allowing for entry of ethnic origin in passports and identity documents.

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at para. 84(18).

(18) The Committee is concerned that some representatives of non-governmental organizations had their passports confiscated and were thus prevented from attending a meeting of non-governmental organizations on the question of Western Sahara at the fifty-ninth session of the Commission on Human Rights in Geneva (Covenant, arts. 12 and 19).

The State party should apply article 12 of the Covenant to all its nationals.

- Uzbekistan, ICCPR, A/60/40 vol. I (2005) 56 at para. 89(19).

(19) The Committee is concerned that the State party requires an “exit visa” from its nationals for their travel abroad, and in particular that representatives of non-governmental organizations who were refused an exit visa were thereby prevented from attending meetings on human rights issues (Covenant, arts. 12 and 19).

The State party should abolish the requirement of an exit visa for its nationals.

ICESCR

- Croatia, ICESCR, E/2002/22 (2001) 125 at paras. 894 and 905.

894. The Committee expresses particular concern that the granting of citizenship under the Law on Croatian Citizenship (1991) has not been governed by fair and objective non-discriminatory criteria based on pre-war residence and connections to Croatia, and as a result has heavily favoured ethnic Croats. The Committee notes with concern that the inability to prove habitual residence negatively affects the possibility of obtaining Croatian nationality for persons from certain minority groups who left during the war and wish to return to Croatia.

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...

905. The Committee urges that the State party establish objective criteria for the granting of citizenship to those wishing to obtain citizenship, in particular to those who left during the war and wish to return to Croatia, irrespective of ethnic origin, and that the Law on Croatian Citizenship be amended accordingly. It further recommends that the State party ratify the 1961 Convention on the Reduction of Statelessness.

- Israel, ICESCR, E/2004/22 (2003) 42 at paras. 251, 261 and 277.

251. The Committee welcomes the improvements in the conditions for foreign workers, allowing them to change employers for the legal duration of their stay, prohibiting employers from withholding workers' passports, as well as the regulations regarding the system of compulsory health insurance for these foreign workers.

...

261. The Committee is particularly concerned about the status of "Jewish nationality", which is a ground for exclusive preferential treatment for persons of Jewish nationality under the Israeli Law of Return, granting them automatic citizenship and financial government benefits, thus resulting in practice in discriminatory treatment against non-Jews, in particular Palestinian refugees. The Committee is also concerned about the practice of restrictive family reunification with regard to Palestinians, which has been adopted for reasons of national security. The Committee reiterates its concern in this regard contained in its previous concluding observations.^{16/}

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277. The Committee reiterates its recommendation that in order to ensure equality of treatment and non-discrimination, the State party undertake a review of its re-entry and family reunification policies for Palestinians.^{21/}

Notes

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^{16/} [Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV], para. 239, and *ibid.*, 2002, Supplement No. 2 (E/2002/22-E/C.12/2001/17), chap. IV, para. 705.

...

^{21/} [Official Records of the Economic and Social Council, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV], para. 262.

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

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

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

- China (Hong Kong Special Administrative Region), ICESCR, E/2006/22 (2005) 34 at paras. 208 and 220.

208. The Committee is concerned that the protection provided in the proposed racial discrimination law will not cover migrants from the Mainland despite the widespread *de jure* and *de facto* discrimination against them on the basis of their origin. The Committee is also concerned that according to the proposals made by the Hong Kong Home Affairs Bureau, the new law will not affect the existing immigration legislation in the Hong Kong Special Administrative Region.

...

220. The Committee strongly urges the Hong Kong Special Administrative Region to extend the protection afforded by the proposed racial discrimination law to internal migrants from the mainland, and to put a stop to the widespread discriminatory practices against them on the basis of their origin. The Committee further recommends that the relevant provisions of the existing immigration legislation governing entry into, period of stay, and departure from, the Hong Kong Special Administrative Region be amended to ensure full conformity and consistency with the new racial discrimination legislation.

CEDAW

- Uganda, CEDAW, A/57/38 part III (2002) 164 at paras. 141 and 142.

141. While welcoming the constitutional provisions and the amended Uganda Immigration and Control Act, 1999 that provide for equal citizenship and nationality rights for women and men, the Committee expresses concern that the Passport Regulations contravene these provisions and discriminate against women. It is concerned that a married woman will not be issued a passport without her husband's written consent, and that the father as legal guardian must consent to the inclusion of a women's minor children in her passport.

142. The Committee urges the State party to take urgent steps to reconcile its Passport Regulations with the provisions of the Constitution and article 9 of the Convention in order

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to eliminate all provisions that discriminate against women in the area of nationality and citizenship...

- Bhutan, CEDAW, A/59/38 part I (2004) 21 at paras. 127 and 128.

127. The Committee is concerned about the situation of ethnic Nepalese women who lost their Bhutanese citizenship following the enactment of the 1985 Citizenship Act and now live in refugee camps in Nepal...

128. The Committee urges the State party to step up its efforts to conduct negotiations with the Government of Nepal, and to collaborate with the Office of the United Nations High Commissioner for Refugees, in order to find a prompt, just and durable solution to the situation of Bhutanese women and girls living in refugee camps in Nepal, including the possibility of return to Bhutan for those Bhutanese women who wish to do so.

- Israel, CEDAW, A/60/38 part II (2005) 129 at paras. 253 and 254.

253. The Committee is concerned about the State party's temporary suspension order of May 2002, enacted into law as the Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003, which suspends the possibility, subject to limited and subjective exceptions, of family reunification, especially in cases of marriages between an Israeli citizen and a person residing in the Occupied Territories. The Committee notes with concern that the suspension order, which has been extended until the end of August 2005, has already adversely affected the marriages and family life of Israeli Arab women citizens and Palestinian women from the Occupied Territories.

254. The Committee calls on the State party to balance its security interests with the human rights of persons affected by such policies, and to reconsider them with a view to facilitating family reunification of all citizens and permanent residents. It calls on the State party to bring the Nationality and Entry into Israel law (Temporary Order) of 31 July 2003 into line with articles 9 and 16 of the Convention...

CAT

- Latvia, CAT, A/59/44 (2003) 48 at para. 100.

100. The Committee expresses concern about the following:

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- (i) The number of persons who lost their legal status as citizens or "non-citizens" and

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became "illegal" after having temporarily left the country;

...

CRC

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 309 and 310.

309. While noting the State party's significant efforts in the past to provide assistance to refugees and internally displaced persons, the Committee remains concerned that:

(a) Former refugees and displaced persons, seeking to resettle in their communities, do not always have full access to education and health services;

(b) Children who seek to cross through, or leave, Mozambique and to enter neighbouring countries are sometimes treated violently by border officials of those countries when caught.

310. The Committee recommends that the State party:

(a) Make additional efforts to assist former refugees and internally displaced persons to resettle in their communities, including through assuring full access to education services, and continue and strengthen family reunification efforts;

(b) Improve its collaboration, *inter alia* through bilateral arrangements and agreements, with relevant neighbouring countries to ensure that children who seek to cross through, or leave, Mozambique for those countries are treated in full respect of the Convention's provisions.

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 227 and 229.

227. In line with the recommendation of the Committee on the Elimination of Racial Discrimination (CERD/C/60/CO/4, para. 13), and while noting the challenges confronted by the State party in meeting the needs of a large number of refugees, returnees and displaced persons, most of whom are children, the Committee remains concerned that return is still hindered by administrative impediments and hostile attitudes on the part of some national and local officials...

...

229. The Committee...recommends that the State party take effective measures to resolve the problem of property owners, most of whom are Serbs, returning to their homes before their occupiers (refugees and displaced persons) have been able to find alternative shelter, and that further efforts be undertaken to facilitate the return of refugees and displaced persons...

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- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 459 and 460.

459. The Committee is deeply concerned at the persisting discrimination against girls and women, in particular in their role as parents, reflected in various legal provisions and practices (e.g. the requirement that a child's father or paternal grandfather only may give his permission for the issuance of a passport for a child under 18 years. Consequently, in a case in which the parents are separated and the mother of the child resides in another country, the child may only leave Iran to visit his/her mother if the father permits the child to do so.)...

460. The Committee recommends that the State party promptly review all its legislation to ensure that it is non-discriminatory and gender-neutral and that it is enforced. Moreover, the State party should take effective measures, including enacting or rescinding, as appropriate, civil and criminal legislation to prevent and eliminate discrimination on the grounds of sex, religion and other grounds, in compliance with article 2 of the Convention.