

LEGAL RIGHTS - PROPERTY, CIVIL AND CONTRACT RIGHTS

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

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

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

...

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

...

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

- Croatia, CERD, A/57/18 (2002) 24 at paras. 99 and 101.

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.

...

101. The Committee is concerned about repeated claims of discriminatory application of the right to equal treatment before the law, particularly in the area of property claims, where the courts reportedly continue to favour persons of Croat origin. The Committee also notes the large backlog of cases before the courts, which impedes access to justice. The Committee recommends that the State party reinforce its efforts to ensure non-discrimination in the application of the right to equal treatment before the law, particularly in the area of

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repossession of property...

- Qatar, CERD, A/57/18 (2002) 38 at paras. 192 and 197.

192. As regards the right to equal treatment before the courts, the Committee takes note of the details provided by the delegation on the judicial reforms under way with a view to the establishment of a single jurisdiction for the enforcement of new legislation in areas including civil, commercial and penal law. It would like to know whether, given the current state of legislation, non-citizens and non-Muslims who suffer discrimination and who are entitled to bring proceedings before a civil court can also bring their cases before the Islamic Shariah courts. The Committee also wishes to know to what extent the Convention can be invoked before the civil and Shariah courts, and what rules of the Shariah answer to the requirements of the Convention...

...

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

- Botswana, CERD, A/57/18 (2002) 53 at paras. 301 and 304.

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.

...

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

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organizations on this issue be resumed, and that a rights-based approach to development be adopted.

- Canada, CERD, A/57/18 (2002) 56 at paras. 330-332.

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...

- Estonia, CERD, A/57/18 (2002) 60 at para. 358.

358. The Committee is concerned that the limited access to remedies hinders the bringing of complaints of discrimination in relation to, *inter alia*, the labour market, housing and education. The Committee recommends that the equality council mentioned in the draft equality act be established, in accordance with general recommendation XVII, as a national human rights institution with the mandate to advise and to monitor relevant legislation and practice and with competence to deal with individual complaints against acts of discrimination in the public or private sector.

- Hungary, CERD, A/57/18 (2002) 63 at para. 384.

384. The Committee is concerned that the Roma population is disproportionately subjected to discrimination in respect of housing and, in particular, to forced evictions. The Committee recommends that the State party take further positive measures to effectively address the issue of discrimination with regard to housing.

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

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.

...

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.

- Senegal, CERD, A/57/18 (2002) 72 at paras. 440 and 445.

440. The Committee notes with satisfaction the State party's efforts to establish institutions for the protection of human rights, such as the Human Rights Committee, the Inter-Ministerial Committee on Human Rights and the Human Rights and Humanitarian Law Office, and notes the enhanced presence of women in public bodies, their access to ownership of property and the banning of genital mutilation...

...

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

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- Côte d'Ivoire, CERD, A/58/18 (2003) 19 at para. 31.

31. The Committee notes with concern that the implementation of Rural Land Act No. 98-750 of 23 December 1998 created a sense of insecurity among foreigners of certain ethnic groups who owned land prior to its adoption. The Committee urges the State party to continue its efforts to explain this text better to the populations concerned and to ensure better protection of acquired rights.

- Ecuador, CERD, A/58/18 (2003) 22 at paras. 59 and 62.

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...

...

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. 77 and 88.

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

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

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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.

- Ghana, CERD, A/58/18 (2003) 30 at para. 112.

112. The Committee is particularly concerned about the occurrence of sporadic violent ethnic conflicts in Ghana and welcomes the efforts undertaken by the State party in this regard. It notes, in particular, the role of traditional and religious leaders in the resolution of conflicts relating to land and chieftaincy or involving customary law...

- Morocco, CERD, A/58/18 (2003) 33 at para. 143.

143. While noting the replies provided by the delegation, the Committee requests the State party to take appropriate steps to put an end to the administrative practice of prohibiting the entering of Amazigh first names in the civil register.

- Poland, CERD, A/58/18 (2003) 35 at para. 162.

162. The Committee welcomes the State party's efforts to implement the comprehensive programme to guarantee the rights of the Roma population in the Malopolska region and encourages the State party to extend the programme to other regions of the country, taking into account general recommendation XXVII (57) of 16 August 2000 concerning discrimination against Roma. It further recommends that the State party pay particular attention to the rights to housing and to employment of the Roma population...

- Russian Federation, CERD, A/58/18 (2003) 38 at paras. 182 and 183.

182. The Committee is concerned about numerous reports that residence registration is used as a means of discriminating against certain ethnic groups, and that the lack of residence registration is used to deny a number of political, economic and social rights. While welcoming the fact that courts in the State party have declared such practices unconstitutional, the Committee recommends that the State party ensure that, in the implementation of the residence registration system, the standards laid down in federal law and supported by decisions of the Constitutional and Supreme Courts are strictly applied.

183. The Committee is concerned about consistent reports of discrimination against Meskhetians in Krasnodar Krai, including arbitrary denial of residence registration and of formal recognition of citizenship. The Committee urges the State party to ensure that the

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Meskhethians in Krasnodar Krai, who arrived in the Russian Federation in 1989-1991, are given residence registration and enjoy the rights and benefits of citizenship. Also, the Committee urges the State party to ensure that the local authorities do not pressure Meskhethians to resettle outside Krasnodar Krai.

- Slovenia, CERD, A/58/18 (2003) 45 at paras. 237 and 241.

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...

...

241. The Committee is concerned that a significant number of persons who have been living in Slovenia since independence without Slovenian citizenship may have been deprived under certain circumstances of their pensions, of apartments they were occupying, and of health care and other rights. The Committee takes note of the efforts undertaken by the State party to address these issues...

- Uganda, CERD, A/58/18 (2003) 50 at para. 272.

272. While noting with satisfaction the legislative measures and judicial mechanisms in place to ensure the return of property to persons of Asian origin, the Committee regrets that such measures have not been fully carried through, due mainly to insecurity in the country and the lack of adequate administrative measures...

- Albania, CERD, A/58/18 (2003) 53 at para. 316.

316. The Committee is concerned about the difficulties encountered by certain national minorities, in particular, the Greek and Aromanian minorities, in recovering and obtaining compensation for their religious properties.

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The Committee encourages the State party to ensure the swift entry into force of the bill on property restitution and compensation, so as to settle this issue once and for all.

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

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.

...

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.

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- Czech Republic, CERD, A/58/18 (2003) 65 at paras. 384, 385 and 387.

384. The Committee notes the efforts under way to facilitate access to the labour market by individuals experiencing difficulties in finding employment, including the Roma, asylum applicants and other marginalized groups. However, the unemployment rate among the Roma remains disproportionately high and continues to be an issue of concern for the Committee. This concern is compounded by the information relating to the practice of usury and its negative economic and social consequences for the Roma.

The Committee urges the State party to continue and intensify poverty reduction and employment programmes for the Roma, and also to consider establishing a functional loan system for socially weak sections of the population, including the Roma, as an alternative to usury. In this respect, the Committee encourages the State party to take due account of the situation of Roma Women, in accordance with its general recommendation XXVII.

385. The Committee welcomes the information on the housing projects for Roma which the State party has implemented and notes the significant efforts invested in seeking optimal solutions to improve their deteriorating housing conditions. While the Committee notes that, in the short term, construction of housing units that are occupied predominantly by Roma may be successful, it is concerned that, in the long term, such solutions may perpetuate segregation. The Committee is further concerned by the evictions from flats or threats to evict reportedly faced by many Roma families.

The Committee encourages the State party to continue its activities in the area of research relating to the problem of housing and to seek solutions that promote the social integration of the Roma. With respect to evictions, the Committee recommends that the State party devise measures to prevent evictions or mitigate their negative effects, in particular on the most vulnerable groups.

...

387. The Committee is encouraged by the preparation of the new Act on Legal Aid, which will facilitate access to justice of victims of discrimination. However, it is concerned at continued reports that judges in criminal proceedings are reluctant to issue findings that crimes are racially motivated. The Committee also regrets the lack of information on specific cases of victims of discrimination having obtained adequate reparation.

The Committee encourages the State party to establish promptly a legal aid system for alleged victims of racism...

- Finland, CERD, A/58/18 (2003) 69 at paras. 405, 408 and 409.

405. While the Committee notes the continuous efforts undertaken by the State party to

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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.

...

408. Concern is...expressed about the "accelerated procedure" provided for in the revised Aliens Act. Under the new provisions, the "accelerated procedure" applies to certain categories of asylum application and, if the application is rejected and entry is refused, could lead to the immediate expulsion of the asylum-seeker. Although such a negative decision can be appealed, it may be enforced within eight days irrespective of an appeal, which would thus have no suspensive effect. In the Committee's opinion, such narrow time limits may not allow for the proper utilization of the appeal procedure available and may result in an irreversible situation even if the decision of the administrative authorities were overturned on appeal...

409. With respect to article 5, the Committee is concerned about the difficulties faced by Roma in the fields of employment, housing and education, as well as about reported cases of discrimination in daily life such as denial of access to public places, restaurants or bars.

The Committee draws the attention of the State party to its general recommendation XXVII on discrimination against Roma and recommends that the State party take all necessary measures with a view to promoting tolerance and overcoming prejudices and negative stereotypes in order to avoid any form of discrimination against members of the Roma community.

- Norway, CERD, A/58/18 (2003) 79 at paras. 472, 477, 479 and 481.

472. While the Committee welcomes the proposed Act on protection against ethnic discrimination, which aims to provide wider protection against discrimination in various fields and introduces a rule on the shared burden of proof in civil cases, it notes that the proposed Act will only cover ethnic and not racial discrimination...

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477. While the Committee acknowledges the frankness of the State party and its efforts to combat discrimination faced by minorities in relation to the housing and labour markets, it remains concerned about the persistence of such discrimination.

The Committee encourages the State party to intensify its efforts in these fields, in accordance with article 5(e) of the Convention, and trusts that provisions to combat

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discrimination in the housing and labour markets will be included in the proposed Act on protection against ethnic discrimination.

...

479. The Committee is concerned about the shortage of well-qualified interpreters in court proceedings, which may be an obstacle to the enjoyment by non-native speakers of the right to equal treatment before the courts and all other organs administering justice.

The Committee recommends that the State party adopt further measures, in accordance with article 5(a) of the Convention, to mitigate the current difficulties with regard to interpretation services.

...

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.

- Malawi, CERD, A/58/18 (2003) 93 at para. 559.

559. The Committee expresses concern over the State party's reservations to the 1951 Convention relating to the Status of Refugees which, in particular, reduce the protection offered to refugees in the field of employment, access to property, right of association, education and social security.

The Committee welcomes the draft Refugee Act, which reflects the intention of the State party to withdraw these reservations, and encourages the State party to give high priority to this process. The Committee recommends, in particular, that the State party take steps to ensure that child refugees are, in practice, given access to education.

- Bahamas, CERD, A/59/18 (2004) 10 at paras. 35 and 39.

35. The Committee notes that it has not received sufficient information on the rights of asylum-seekers and is disturbed by reports that the current system is incapable of guaranteeing that no one will be sent back to a country where his life or liberty might be in danger.

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The Committee advises the State party to guarantee the rights of asylum-seekers to information, the services of an interpreter, legal assistance and judicial remedies...

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39. The Committee notes the State party's assertion that there have been neither complaints nor court decisions on the subject of racial discrimination, and which is put forward as evidence of the absence of racial discrimination in the Bahamas.

The Committee urges the State party to investigate why there are no complaints of racial discrimination and whether, in particular, it may be because the country does not have a sufficient span of legislation to combat discrimination. The State party should also verify that the lack of such complaints is not the result of victims' lack of awareness of their rights, fear of reprisals, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

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

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.

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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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- Lebanon, CERD, A/59/18 (2004) 18 at para. 84.

84. While acknowledging the political factors related to the presence of Palestinian refugees in Lebanon, the Committee reiterates its concern with regard to the enjoyment by the Palestinian population present in the country of all rights stipulated in the Convention on the basis of non-discrimination, in particular access to work, health care, housing and social services as well as the right to effective legal remedies. The Committee notes the statement of the delegation that the 2001 property law does not apply retroactively and that Palestinians' right to inherit remains in force.

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

- Nepal, CERD, A/59/18 (2004) 24 at paras. 127 and 128.

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

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

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.

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- Spain, CERD, A/59/18 (2004) 32 at paras. 172 and 173.

172. While the Committee commends the ongoing cooperation between the State party and the United Nations High Commissioner for Refugees as well as the commitment of the State party to improve the country's asylum system by transposing into Spanish law, by February 2005, European Union Directive 2003/9, laying down minimum standards for the reception of asylum-seekers, it is concerned about the poor conditions encountered by asylum-seekers due to the overcrowding of reception centres, in particular in Ceuta and the Canary islands.

The Committee recommends that the State party take adequate measures necessary to improve the situation of asylum-seekers, especially in Ceuta and in the Canary islands...

173. While the Committee warmly welcomes the 2003 Memorandum of Understanding between Spain and Morocco on assistance in the repatriation of unaccompanied foreign children, it expresses concern about the situation of these children, particularly in relation to the poor conditions in the reception centres for minors (especially in Ceuta and Melilla).

The Committee recommends that the State party take all necessary measures to improve the conditions in reception centres for minors and ensure respect for the existing laws so that regular procedures in the expulsion of unaccompanied foreign children are carried out...

- Suriname, CERD, A/59/18 (2004) 36 at paras. 190-193 and 197.

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.

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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...

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.

...
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.

- Sweden, CERD, A/59/18 (2004) 41 at paras. 214 and 222.

214. The Committee welcomes the adoption of a series of legislative measures undertaken by the State party to combat racial discrimination, including:

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(a) The new Prohibition of Discrimination Act, which entered into force on 1 July 2003. The Committee takes note with satisfaction that the new Act broadens the scope of protection against ethnic discrimination, requires the complainant to establish only a *prima facie* case of discrimination and extends the field of supervision of the Ombudsman against Ethnic Discrimination;

(b) The new Group Proceedings Act, which entered into force on 1 January 2003, providing the possibility, in specific circumstances, of instituting class action suits in cases of alleged discrimination;

(c) The amendments to the Fundamental Law on Freedom of Expression, which came into force in January 2003, which facilitates the bringing of legal action in cases of racial agitation;

(d) The new Act on Citizenship, which came into force on 1 July 2001, accepting the possibility of dual citizenship and facilitating the acquisition of Swedish citizenship for children of foreign background.

...

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.

- Argentina, CERD, A/59/18 (2004) 45 at paras. 235, 243, 246 and 248.

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

...

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

...

243. While taking note with satisfaction of the assurances given by the State party regarding its plan to intensify the human rights training of border and immigration officials, the Committee is concerned about reported cases of *refoulement* of refugees and allegedly

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unfair refugee status determination procedures. In this connection, the Committee observes that, while the State party generally endeavours to follow the standards of the Convention relating to the Status of Refugees, but within a more limited legislative framework, there is no comprehensive law dealing with the protection of refugees...

The Committee calls upon the State party to increase its efforts to fully respect article 5 (b) of the Convention and the principle of *non-refoulement* and improve refugee protection conditions and safeguards, including interpretation facilities, particularly at airports and other border points. It also urges the State party to ensure that new legislation is adopted that addresses eligibility for refugee status and the rights of refugees and specifies the refugee status determination procedures and rights of review...

...

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' 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.

...

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.

- Madagascar, CERD, A/59/18 (2004) 58 at paras. 311 and 322.

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311. The Committee welcomes the elimination of the waiting period imposed on naturalized aliens wishing to purchase real estate.

...

322. The Committee recalls that the fact that victims of racial discrimination do not bring cases before the courts may be the result of, *inter alia*, the limited resources available to them, their lack of awareness of their rights, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

The State party should take steps to inform the population about their rights as regards efforts to combat racial discrimination and should make it easier for victims to gain access to justice, in particular through the effective application of a system of legal aid. It should also strengthen training for law enforcement personnel, the legal profession and customary chiefs in this regard.

- Mauritania, CERD, A/59/18 (2004) 61 at paras. 342-344.

342. The Committee notes with concern that vestiges of the caste system persist in Mauritania. While welcoming the fact that slavery was abolished by a law dated 9 November 1981, it remains concerned about information on the persistence of slavery-like practices, which constitute serious instances of discrimination based on descent. It is concerned that no implementing orders have been issued subsequent to the 1981 law and that there is no provision in criminal law that expressly punishes slavery.

The Committee draws the State party's attention to its general recommendation XXIX concerning racial discrimination based on descent...It strongly recommends that the State party launch, in cooperation with non-governmental organizations and religious leaders, a wide-ranging information and public-awareness campaign to put an end to slavery-like practices. The State party should ensure that the perpetrators of such practices, which are already prohibited by law, are systematically prosecuted in the courts, including in cases where they have seized the property of deceased former slaves.

343. The Committee notes that the information on the adoption of practical measures designed specifically to combat slavery-like practices remains inadequate.

Taking note of the delegation's statement that the anti-poverty programme is helping to eradicate the legacy of slavery, the Committee considers that other actions specifically targeting the populations concerned should be taken. The State party should conduct a study, in cooperation with civil society, to determine the economic and social situation of the descendants of slaves, including how many of them have title to land.

344. The Committee notes with concern that, according to some reports, several thousand

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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...

- Portugal, CERD, A/59/18 (2004) 66 at para. 372.

372. The Committee is concerned about the non-suspensive effect of appeal in the admissibility phase of the asylum procedure, which may result in creating an irreversible situation, even if the decision of the administrative authorities were to be overturned on appeal.

The Committee urges the State party to guarantee respect for the legal safeguards for asylum-seekers and to ensure that its asylum law and procedures conform to its international obligations in this field.

- Slovakia, CERD, A/59/18 (2004) 70 at para. 382.

382. While the Committee notes with appreciation the continuous efforts undertaken to combat racial discrimination and related violence, including the setting up of a commission to deal with racially motivated violence and of the Racism and Xenophobia Monitoring Centre, it remains concerned about the occurrence of racially motivated crimes and incidents in the country.

The Committee encourages the State party to continue monitoring all tendencies that may give rise to racist and xenophobic behaviour and to combat the negative consequences of such tendencies. The Committee also recommends that the State party intensify its efforts to ensure to everyone within its jurisdiction effective protection against any act of racial discrimination, as well as the right to seek just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. In this respect, the State party should ensure that victims of racist crimes are afforded wider access to free legal assistance.

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

447. The Committee notes with concern that, according to certain sources, the Bethelilokono people are allegedly not invited to participate in decisions affecting them,

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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.

...

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. 35-37 and 43.

35. The Committee notes with concern that it has proved difficult for complainants, under the Racial Discrimination Act, to establish racial discrimination in the absence of direct evidence, and that no cases of racial discrimination, as distinct from racial hatred, have been successfully litigated in the Federal courts since 2001 (arts. 4 and 6).

The Committee, having taken note of the explanations provided by the delegation, invites the State party to envisage regulating the burden of proof in civil proceedings involving racial discrimination so that once an alleged victim has established a *prima facie* case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for differential treatment.

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

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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).

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.

...

43. The Committee expresses concern about the mandatory detention of illegal migrants, including asylum-seekers, in particular when such detention affects women, children, unaccompanied minors, and those who are considered stateless. It is concerned that many persons have been in such administrative detention for over three years (art. 5).

The Committee recommends that the State party review the mandatory, automatic and indeterminate character of the detention of illegal migrants...

- Bahrain, CERD, A/60/18 (2005) 22 at para. 85.

85. The Committee is concerned about allegations of substantial prejudice against women migrant domestic workers, in particular those coming from Asia, especially as regards their working conditions, and about the fact that these women do not benefit from the protection of the Labour Code.

In light of its general recommendation XXX and of its general recommendation XXV on gender-related dimensions of racial discrimination, the Committee requests the State party to take effective measures to prevent and redress the serious problems commonly faced by female domestic workers, including debt bondage, passport retention, illegal confinement, rape and physical assault, and to report on measures taken for the protection of their rights.

- France, CERD, A/60/18 (2005) 26 at paras. 109 and 116.

109. The Committee remains concerned at the fact that only French may be used in applications for asylum.

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In order to allow asylum-seekers to exercise their rights fully, the Committee invites the State party to lay down that asylum-seekers may be assisted by translators/interpreters whenever necessary, and/or to agree that applications for asylum may be written in the most common foreign languages.

...

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

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

- Ireland, CERD, A/60/18 (2005) 30 at para. 148.

148. The Committee remains concerned that a fairly short time limit has been introduced in respect of the judicial review of administrative decisions on immigration issues (art. 6).

The Committee hopes that all issues pertaining to the appeal procedure will be adequately resolved within the framework of the proposed Immigration and Residence Bill.

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

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

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consultation procedures, would be particularly useful.

- Iceland, CERD, A/60/18 (2005) 51 at paras. 267 and 269.

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

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

...

269. The Committee is concerned at reported cases where access to public places such as bars, discotheques, etc. has been denied on racist grounds, and notes the absence of court judgements under article 180 of the General Penal Code prohibiting such discriminatory acts (art. 5 (f)).

The Committee recalls the right of all individuals to access public places without discrimination and recommends that the State party regulate the burden of proof in civil proceedings involving denial of access to public places based on race, colour, descent, and national or ethnic origin so that once an individual has established a *prima facie* case that he or she has been a victim of such denial, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment.

- Nigeria, CERD, A/60/18 (2005) 54 at paras. 289 and 294.

289. The Committee is seriously concerned that despite attempts to foster national unity, prejudices and feelings of hostility among some ethnic groups persist in Nigeria, including active discrimination by people who consider themselves to be the original inhabitants of their region against settlers from other states. The Committee is particularly concerned at the persistence of inter-ethnic, intercommunal and interreligious violence in the country stemming from these hostile sentiments as well as at disputes over commercial interests and resource control, which have claimed thousands of lives and led to the displacement of a significant proportion of the population (art. 2).

The Committee encourages the State party to continue monitoring all initiatives and tendencies that may give rise to racist and xenophobic behaviour, and to combat the negative consequences of such tendencies. The Committee recommends that the State party carefully

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monitor the negative impact of its efforts to promote national unity through regional and state action and, in particular, the effects on relations between and among ethno-religious groups. The Committee recommends that the State party endeavour, by encouraging genuine dialogue, to improve relations between different ethnic and religious communities with a view to promoting tolerance and overcoming prejudices and negative stereotypes. It invites the State party to conduct studies with a view to effectively assessing and evaluating occurrences of racial discrimination.

...

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...

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...

- Turkmenistan, CERD, A/60/18 (2005) 61 at para. 320.

320. The Committee notes with deep concern information that the State party has internally forcibly displaced populations, targeting in particular ethnic Uzbeks, to inhospitable parts of Turkmenistan...

The Committee requests the State party not to forcibly displace populations and to re-examine its policy in this regard...

- Venezuela (Bolivarian Republic of), CERD, A/60/18 (2005) 71 at paras. 380 and 382.

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.

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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.

...

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 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...

- Zambia, CERD, A/60/18 (2005) 75 at paras. 396, 397 and 406.

396. The Committee welcomes the State party's efforts to enhance the access of refugees to the courts and in particular the establishment of mobile special courts and special police units to serve in refugee camps and settlements.

397. The Committee, while welcoming the establishment of a Constitution Review Commission in 2003, reiterates its concern that article 23 of the Constitution, which allows for extended restrictions to the prohibition of discrimination with respect to non-citizens, matters of personal law and of customary law, is not in compliance with the Convention (art. 1).

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

...

406. The Committee notes that complaints of racial discrimination have failed before institutions such as the Zambian Human Rights Commission and the Industrial Relations Court, because of the impossibility of proving racial discrimination (art. 6).

The Committee recommends that complaints of racial discrimination be fully dealt with,

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including when they are coupled with complaints of violation of other rights, such as labour rights. It also recommends that full attention be paid to the possible existence of indirect discrimination, which is prohibited under the Convention. Further, it encourages the State party to envisage regulating the burden of proof in civil proceedings involving racial discrimination so that once a person has established a prima facie case that he or she has been a victim of such discrimination, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment.

ICCPR

- United Kingdom of Great Britain and Northern Ireland, ICCPR, A/57/40 vol. I (2002) 36 at para. 75(16).

(16) The Committee is concerned that asylum-seekers have been detained in various facilities on grounds other than those legitimate under the Covenant, including reasons of administrative convenience. In any event, the Committee considers unacceptable any detention of asylum-seekers in prisons. The Committee notes, moreover, that asylum-seekers, after final refusal of their request, may also be held in detention for an extended period when deportation might be impossible for legal or other considerations. The Committee is also concerned that the practice of dispersing asylum-seekers may have adverse effects on their ability to obtain legal advice and upon the quality of that advice. Dispersal, as well as the voucher system of support, have on occasion led to risks for the physical security of asylum-seekers.

The State party should closely examine its system of processing asylum-seekers in order to ensure that each asylum-seeker's rights under the Covenant receive full protection, being limited only to the extent necessary and on the grounds provided for in the Covenant. The State party should end detention of asylum-seekers in prisons.

- Georgia, ICCPR, A/57/40 vol. I (2002) 53 at para. 78(10).

(10) The Committee expresses its concern at the fact that a person may be detained and imprisoned or prevented from leaving his or her residence because of non-fulfilment of contractual obligations.

The State party should bring its civil and criminal legislation into line with articles 11 and 12 of the Covenant.

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

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(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.

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

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

The State party should ensure that religious organizations are treated in a manner that is compatible with the Covenant; it should reinforce the protection of religious rights of asylum-seekers and prisoners; [and] it should complete the process of restitution of Church property without discrimination...

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

(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.

- Yemen, ICCPR, A/57/40 vol. I (2002) 72 at para. 83(7).

(7) The Committee notes with concern the situation of discrimination against women in matters of personal status, particularly in matters of marriage and divorce and the rights and

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duties of spouses.

The State party should review its legislation to ensure that, in all fields in the life of society, women enjoy complete equality with men, both in law and in fact, so as to comply with its obligations under the Covenant (articles 3, 7, 8, 17 and 26 of the Covenant).

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at paras. 77(3), 77(8) and 77(10).

(3) The Committee...notes some improvements in the status of women and welcomes the creation of the National Council for Women and the introduction of legal reforms, in particular the passage of Act No. 1 of 2000, allowing women to end marriages unilaterally...

...

(8) The Committee notes with concern that women seeking divorce through unilateral repudiation by virtue of Act No. 1 of 2000 must forego their rights to financial support and, in particular, to their dowries (articles 3 and 26 of the Covenant).

The State party should review its legislation so as to eliminate financial discrimination against women.

...

(10) The Committee draws attention to the discrimination affecting women as regards transmission of nationality to their children when their spouses are not Egyptian and as regards the rules governing inheritance (articles 3 and 26 of the Covenant).

The State party is encouraged to bring its current inquiries to a conclusion and do away with all discrimination between men and women in its domestic legislation.

- Togo, ICCPR, A/58/40 vol. I (2002) 36 at paras. 78(21) and 78(22).

(21) The Committee notes with great concern that the Individuals and Family Code, which has been under review since 1999, still contains provisions that discriminate against women, particularly with respect to the minimum age for marriage, the choice of the matrimonial home and freedom to work; that it authorizes polygamy and designates the husband as head of the family; and that it upholds the primacy of particularly discriminatory customary laws relating to marriage and succession.

The State party should bring the Individuals and Family Code into line with articles 3, 23 and 26 of the Covenant and bear in mind, in this regard, the concerns expressed by non-governmental organizations active in the field of women's rights.

(22) The Committee is worried about continuing discrimination against women and girls

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with respect to access to education, employment, inheritance and political representation in Togo. Moreover, as the State party itself has acknowledged, certain cultural practices, as well as women's unawareness of their rights, give rise to many violations of women's rights.

The State party should eliminate all forms of discrimination against women, increase its efforts to educate girls and make the population more aware of women's rights, and carry out new programmes with a view to giving women access to employment and political posts.

- Estonia, ICCPR, A/58/40 vol. I (2003) 41 at para. 79(10).

(10) The Committee takes note of the delegation's acknowledgement that legislation on detention of mental health patients is outdated and that steps have been taken to revise it, including the adoption of a draft Patient Rights Act. In this regard, the Committee is concerned at some aspects of the administrative procedure related to the detention of a person for mental health reasons, in particular the patient's right to request termination of detention, and, in the light of the significant number of detention measures that had been terminated after 14 days, the legitimate character of some of these detentions. The Committee considers that a period of 14 days of detention for mental health reasons without any review by a court is incompatible with article 9 of the Covenant.

The State party should ensure that measures depriving an individual of his or her liberty, including for mental health reasons, comply with article 9 of the Covenant. The Committee recalls the obligation of the State party under article 9, paragraph 4, to enable a person detained for mental health reasons to initiate proceedings in order to review the lawfulness of his/her detention...

- Luxembourg, ICCPR, A/58/40 vol. I (2003) 45 at para. 80(9).

(9) The Committee notes that the Civil Code still draws a distinction between "legitimate" children and children born out of wedlock, whereas by law, they are entitled to the same rights (article 26 of the Covenant).

The State party should remove this obsolete distinction from the Civil Code.

- Mali, ICCPR, A/58/40 vol. I (2003) 47 at para. 81(10).

(10) While welcoming the establishment of a Ministry for the Advancement of Women, Children and the Family, the Committee expresses its grave concern at the continued existence in Mali of legislation which discriminates against women, in particular with regard

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to marriage, divorce, and inheritance and succession, and of discriminatory customary rules relating to property ownership. The Committee, while appreciating that adoption of a Family Code requires wide-ranging consultations, notes with concern that the proposed reform, ongoing since 1998, has not yet concluded. The Committee is also concerned about information that the practice of the levirate, a practice whereby a widow is inherited by the deceased husband's brother or cousin, is said to persist in Mali (articles 3, 16 and 23 of the Covenant).

(a) The State party should expedite the adoption of the Family Code; the Committee recommends that the Code comply with the provisions of articles 3, 23 and 26 of the Covenant, in particular with regard to the respective rights of spouses in the context of marriage and divorce. In this connection, the Committee draws the attention of Mali to its general comment No. 28 on equality of rights between men and women, in particular with regard to polygamy, a practice that violates the dignity of women and constitutes unacceptable discrimination against women. The State party should abolish polygamy once and for all.

(b) Particular attention should be paid to the question of early marriage by girls, a widespread phenomenon. The State party should raise the minimum legal age for marriage by girls to the same age as for boys.

(c) The State party should establish a succession regime that does not discriminate against women: equality of heirs without discrimination on the basis of sex should be guaranteed, and the State should ensure better guarantees of the rights of widows and that upon succession there is a fair distribution of assets.

(d) The State party should abolish the levirate once and for all and apply appropriate penalties against those engaging in the practice, and take appropriate measures to protect and support women, especially widows.

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at para. 85(16).

(16) While fully acknowledging the threat posed by terrorist activities in the Occupied Territories, the Committee deplores what it considers to be the partly punitive nature of the demolition of property and homes in the Occupied Territories. In the Committee's opinion the demolition of property and houses of families some of whose members were or are suspected of involvement in terrorist activities or suicide bombings contravenes the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (art. 17), freedom to choose one's residence (art. 12), equality of all persons before the law and equal protection of the law (art. 26), and not to be subject to torture or cruel and inhuman treatment (art 7) .

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The State party should cease forthwith the above practice.

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

(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 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.

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at para. 64(25).

(25) The Committee is concerned about the long delay in the processing of asylum claims, in particular in Moscow and the surrounding region, where asylum seekers may have to wait for more than two years before being able formally to initiate the application procedure. It is also concerned that the Migration Service in Moscow reportedly has not allowed unaccompanied children to lodge asylum claims unless they have a legal guardian.

The State party should ensure timely access of asylum-seekers to the refugee status determination procedure, in particular in Moscow and its region, as well as proper documentation of asylum-seekers throughout the procedure, including the appeal stage. The State party should ensure that the relevant authorities appoint a legal guardian for unaccompanied children seeking asylum (arts. 13 and 24).

- Latvia, ICCPR, A/59/40 vol. I (2003) 25 at paras. 65(9) and 65(18).

(9) While welcoming the entry into force of the new asylum law, the Committee remains concerned at the short time limits, in particular for the submission of an appeal under the accelerated asylum procedure, which raises concerns regarding the availability of an effective remedy in cases of *refoulement* (arts. 6, 7 and 2, para. 3).

The State party should ensure that the time limits under the accelerated asylum procedure are extended, in particular for the submission of an appeal.

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...

(18) With regard to the status of non-citizens, the Committee notes the policy of the Government to further social integration through naturalization. However, the Committee is concerned about the large proportion of non-citizens in the State party, who by law are treated neither as foreigners nor as stateless persons but as distinct category of persons with long-lasting and effective ties to Latvia, in many respects comparable to citizens but in other respects without the rights that come with full citizenship. The Committee expresses its concern over the perpetuation of a situation of exclusion, resulting in lack of effective enjoyment of many Covenant rights by the non-citizen segment of the population, including political rights, the possibility to occupy certain State and public positions, the possibility to exercise certain professions in the private sector, restrictions in the area of ownership of agricultural land, as well as social benefits (art. 26).

The State party should prevent the perpetuation of a situation where a considerable part of the population is classified as "non-citizens". In the interim, the State party should facilitate the integration process by enabling non-citizens who are long-term residents of Latvia to participate in local elections and to limit the number of other restrictions on non-citizens in order to facilitate the participation of non-citizens in public life in Latvia.

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at para. 66(19).

(19) While commending the introduction since 1995 of legislation designed to improve the condition of women, the Committee remains concerned about the contradiction between constitutional guarantees of fundamental rights and the continuing existence of certain aspects of personal laws discriminating against women, in regard to marriage, notably the age of marriage, divorce and devolution of property (arts. 3, 23, 24 and 26).

The State party should complete the ongoing process of legislative review and reform of all discriminatory laws, so as to bring them into conformity with articles 3, 23, 24 and 26 of the Covenant.

- 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.

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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.

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at para. 68(21).

(21) The Committee is concerned that the Roma continue to suffer prejudice and discrimination, in particular with regard to access to housing and employment...

(a) The State party should intensify its efforts to integrate Roma communities in Germany in a manner respectful of their cultural identity, in particular through the adoption of positive action with regard to housing, employment and education.

...

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at paras. 69(20) and 69(21).

(20) While the Committee welcomes the State party's Gender Policy Programme, including a timetable for reviewing several provisions in domestic laws that are discriminatory against women, it remains concerned that discriminatory legislation in relation to gender still exists, including in the Personnel Act, the Identity Act, the Nationality and Residence Act and the Elections Act (arts. 3 and 26).

The State party is invited to eliminate any existing legislation that discriminates in relation to gender.

(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...

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 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...

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- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at para. 70(19).

(19) The Committee is concerned at the practice of imprisoning persons for contractual debts, which is incompatible with article 11 of the Covenant.

The State party should abolish imprisonment for debt.

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

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

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

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at paras. 72(17) and 72(21)-72(23).

(17) The Committee is concerned that foreigners held in closed facilities pending expulsion and then released by judicial decision have been held in the transit area of the national airport under questionable sanitary and social conditions. There are reports of periods of detention extending to several months in some cases. Such practices, in the Committee's view, are akin to arbitrary detention and can lead to inhuman and degrading treatment (arts. 7 and 9).

The State party should put an immediate stop to the holding of foreigners in the airport transit area.

...

(21) The Committee welcomes the establishment of an Individual Complaints Board to look into complaints from aliens about the conditions under which they are held and the rules to which they are subject, but is concerned that complaints have to be lodged within five days and do not have the effect of suspending expulsion measures (arts. 2 and 10).

The State party should extend the deadline for lodging complaints and give complaints a suspensive effect on expulsion measures.

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(22) The Committee is disturbed that the rules governing the operation of INAD centres (for passengers refused entry to the country) and the rights of the aliens held there do not appear to be clearly established in law (arts. 2 and 10).

The State party should clarify the situation and ensure that the aliens held in such centres are informed of their rights, including their rights to appeal and to lodge complaints.

(23) The Committee is concerned that the ministerial circular of 2002 giving suspensive effect to emergency remedies filed by asylum-seekers against expulsion orders has not been published; this is likely to leave the individuals concerned in a legally uncertain situation (arts. 2 and 13).

The State party should establish clear rules in its legislation to govern appeals against expulsion orders. It should give suspensive effect not only to emergency remedies but also to appeals accompanied by an ordinary request for suspension filed by any alien against an expulsion order concerning him or her.

- Namibia, ICCPR, A/59/40 vol. I (2004) 64 at para. 74(9).

(9) The Committee welcomes the Married Persons Equality Act, which eliminates discrimination between spouses. It nevertheless remains concerned at the large number of customary marriages that are still not registered and about the consequent deprivation of women and children of their rights, in particular with regard to inheritance and land ownership.

The State party should take effective measures to encourage the registration of customary marriages and to grant the spouses and the children of registered customary marriages the same rights as are granted to the spouses and children of marriages under civil law. The future Bill on Intestate Inheritance and Succession and the future Bill on Recognition of Customary Law Marriages should take these considerations into account.

- Finland, ICCPR, A/60/40 vol. I (2004) 22 at paras. 81(15) and 81(17).

(15) While acknowledging the State party's efforts to enable the Roma minority to preserve its language and culture and to integrate fully into society, the Committee again notes with concern that Roma still face discrimination in housing, education, employment and access to public places.

The State party should step up its efforts to combat social exclusion and discrimination, and allocate the requisite resources to put into effect all plans to do away with obstacles to the

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Roma's practical exercise of the rights they enjoy under the Covenant (arts. 26 and 27).

...

(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.

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at para. 83(23).

(23) The Committee notes with concern that public demonstrations have been banned for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant.

The State party should guarantee the right of peaceful assembly and impose only those restrictions that are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. Timely remedies for appealing any ban should be available.

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at paras. 84(6), 84(27) and 84(33).

(6) The Committee welcomes the decision of 26 September 2000 by Morocco Supreme Court concerning the primacy of article 11 of the Covenant, prohibiting imprisonment for inability to fulfil a contractual obligation, over domestic law and practice. It notes with interest the content of the letter dated 7 April 2003 referring to the above-mentioned Supreme Court decision, in which the Minister of Justice requests the principal public prosecutors at appeal courts and courts of first instance to apply article 11 of the Covenant and to refer back to the courts the cases of all persons serving such sentences.

...

(27) The Committee is concerned about the legal ban on marriages between women of the Muslim faith and men from other religions or with other beliefs (Covenant, arts. 3, 23 and 26).

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The State party should comply with the provisions of articles 3, 23 and 26 of the Covenant by revising the legislation concerned.

...

(33) While welcoming the adoption of the Family Code, the Committee notes with concern that inequalities between women and men persist in the area of inheritance and divorce.

The State party should review its legislation and ensure that any gender-based discrimination in the area of inheritance or divorce is eliminated (Covenant, art. 26).

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at paras. 86(9), 86(10), 86(20) and 86(22).

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

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

(10) The Committee notes with concern that systemic discrimination against women persists in Kenya, both in law and practice. This includes a low level of representation of women in Parliament and in public office, despite recent progress in this area; inequalities in claiming property rights; the discriminatory practice of “wife inheritance”; and inequalities in the law of succession or inheritance. In addition, the continued application of some customary laws, including the permissibility of polygamous marriages, undermines the scope of the non-discrimination provisions in the Constitution and other legislative texts (articles 2, 3, 23, 24 and 26 of the Covenant).

The State party should take urgent measures to address the absence of constitutional protection against discrimination in relation to women and gender disparities, and intensify its efforts to ensure their protection, whether through the National Commission on Gender and Development or otherwise. The draft bill that would eliminate inequality of spouses with regard to marriage, divorce, devolution of property and other rights should be adopted without delay. The State party should prohibit polygamous marriages.

...

(20) The Committee remains concerned about reports of serious dysfunctions in the administration of justice, owing primarily to the lack of human and material resources as well as the slow pace of proceedings. While the Committee appreciates recent Government measures such as the adoption of the Anti-Corruption and Economic Crimes Bill and its implementation, and the establishment of the Kenya Anti-Corruption Commission, which led to the resignation or the suspension of many High Court and Court of Appeal judges, it

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notes that allegations of judicial corruption persist, a situation that seriously undermines the independence and impartiality of the judiciary (articles 2 and 14 of the Covenant).

The State party should give priority to its efforts to combat corruption in the judiciary and to address the need to provide increased resources to the administration of justice.

...

(22) While noting the delegation's explanations on the issue, the Committee remains concerned about reports of the forcible eviction of thousands of inhabitants from so called informal settlements, both in Nairobi and other parts of the country, without prior consultation with the populations concerned and/or without adequate prior notification. This practice arbitrarily interferes with the Covenant rights of the victims of such evictions, especially their rights under article 17 of the Covenant.

The State party should develop transparent policies and procedures for dealing with evictions and ensure that evictions from settlements do not occur unless those affected have been consulted and appropriate resettlement arrangements have been made.

- Mauritius, ICCPR, A/60/40 vol. I (2005) 52 at paras. 88(17) and 88(18).

(17) While taking note of the delegation's explanations, the Committee reiterates its concern with respect to the incompatibility of Mauritian legislation with article 11 of the Covenant.

The State party is once again invited to bring its legislation in line with the provisions of article 11 of the Covenant.

(18) The Committee notes that expulsion procedures contain no provisions guaranteeing respect for the rights protected by the Covenant (Covenant, art. 13).

The State party should integrate into its legislation all the safeguards which should accompany an expulsion procedure.

- Greece, ICCPR, A/60/40 vol. I (2005) 60 at paras. 90(8) and 90(13).

(8) The Committee is concerned about the impediments that Muslim women might face as a result of the non-application of the general law of Greece to the Muslim minority on matters such as marriage and inheritance (arts. 3 and 23).

The Committee urges the State party to increase the awareness of Muslim women of their rights and the availability of remedies and to ensure that they benefit from the provisions of Greek civil law.

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...

(13) The Committee is concerned about civil law provisions that appear to authorize the imprisonment of a debtor for failure to pay a debt. Despite the State party's interpretive use of the Covenant in mitigation of this statutory provision, this law may be applied in ways that are incompatible with article 11 of the Covenant (art. 11).

The State party should bring its legislation into full conformity with the substantive obligations contained in article 11 of the Covenant.

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at para. 91(9).

(9) The Committee reiterates its deep concern about discrimination suffered by women in matters of personal status. It is concerned, in particular, about the persistence of polygamy, apparently without even the possibility for women to enter into a form of marriage that precludes polygamy, and the existence of rules discriminating against women in matters of marriage, divorce, testimony and inheritance (arts. 3 and 26).

The State party should review its laws in order to ensure full equality between men and women in matters of personal status and actively promote measures to combat polygamy, which is not in accordance with the Covenant.

- Syrian Arab Republic, ICCPR, A/60/40 vol. I (2005) 78 at para. 94(16).

(16) The Committee reiterates its previous concern that, despite article 25 of the Constitution, discrimination against women continues to exist in law and practice in matters related to marriage, divorce and inheritance, and that the Penal Code contains provisions discriminating against women, including providing lesser penalties for crimes committed by men in the name of honour. It notes the statement by the delegation that a commission is currently considering amendments to the personal status laws and that the provisions of the Penal Code with regard to honour crimes are currently being revised (arts. 3, 6 and 26).

The State party should review its laws in order to ensure equality between men and women in matters of personal status, and to eliminate any discrimination against women in the Penal Code.

- Thailand, ICCPR, A/60/40 vol. I (2005) 83 at paras. 95(11) and 95(24).

(11) The Committee notes with concern that the provisions of the Civil Code are discriminatory against women with regard to grounds for divorce (arts. 3 and 26).

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The State party should amend the provisions of the Civil Code governing grounds for divorce in line with articles 3 and 26 of the Covenant.

...

(24) The Committee expresses its concern about the structural discrimination by the State party against minority communities, in particular the Highlanders with regard to citizenship, land rights, freedom of movement and the protection of their way of life. The Committee notes with concern the treatment of the Highlanders by law enforcement officials, in particular their forced eviction and relocation in the context of the 1992 Master Plan on Community Development, Environment and Narcotic Crop Control in Highland Areas, which gravely affected their livelihood and way of life, as well as the reports of extrajudicial killings, harassment and confiscation of property in the context of the “war on drugs” campaign. The Committee is also concerned about the construction of the Thai-Malaysian Gas Pipeline and other development projects which have been carried out with minimal consultation with the concerned communities. In addition, the Committee is concerned about violent suppression of peaceful demonstrations by law enforcement officers in contravention of articles 7, 19, 21 and 27 of the Covenant (arts. 2, 7, 19, 21 and 27).

The State party should guarantee the full enjoyment of the rights of persons belonging to minorities that are set out in the Covenant, in particular with respect to the use of land and natural resources, through effective consultations with local communities. The State party should respect the rights of persons belonging to minorities to enjoy their own culture, to profess and practice their own religion, and to use their own language in community with other members of their group.

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

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

...

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. 761 and 782.

761. The Committee notes with regret that the traditional lands of indigenous peoples have

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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.

...

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.

- Algeria, ICESCR, E/2002/22 (2001) 116 at paras. 817 and 832.

817. The Committee is deeply concerned about the persisting discrimination in the political, social and economic spheres of life against women in Algerian society, and women's inferior position under the Family Code of the State party, already referred to in the Committee's concluding observations on the initial report of Algeria^{22/}. In this regard, the Committee expresses its serious concern about the considerable divergence existing in the State party between constitutional provisions, on the one hand, and national legislation and practice, on the other, particularly with regard to a number of discriminatory provisions of the Family Code, including provisions on polygamy, unilateral repudiation by the husband, the requirement of a guardian's consent for marriage, the obligation of the wife to obey her husband, gender discrimination with regard to inheritance, as well as the husband's absolute right to keep the conjugal home in the case of divorce.

...

832. The Committee urges the State party to undertake a radical reform of the Family Code in order to give full recognition to the equal rights of women, to conduct an information campaign on gender equality and to introduce gender mainstreaming into all its legislation in accordance with the provisions of the Covenant.

Notes

...

^{22/} See *Official Records of the Economic and Social Council, 1996, Supplement No. 2* (E/1996/22-E/C.12/1995/18), chap. V, para. 299.

- Croatia, ICESCR, E/2002/22 (2001) 125 at paras. 893, 898, 904, 911 and 914.

893. The Committee notes with concern that many displaced ethnic Serbs continue to face legal and administrative difficulties in attempting to repossess their former homes. The Committee is also concerned that while the process of repatriation and relocation of ethnic

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Serbs has begun showing signs of improvement, the results and the pace of their return and the settlement of their property and tenancy claims in relation to those of other displaced Croatians reveal that ethnic Serbs continue to face excessive obstacles to their return. The Committee is deeply disturbed that these obstacles have resulted in the violation of the rights of many Serbs under articles 2 and 11 of the Covenant.

...

898. The Committee is alarmed at the large backlog of cases before the courts, estimated at 1 million cases in a country with a population of about 4.8 million people, which impedes access to justice. The Committee is also concerned that many court decisions that are favourable to minorities, particularly ethnic Serbs, are not implemented by the responsible enforcement agencies. The obstacles faced by many ethnic Serbs with regard to occupancy rights and the difficulty they encounter when seeking redress through the courts is illustrated, in particular, by Application No. 45943/99, *Rudan v. Croatia*, recently decided by the European Court of Human Rights. The facts of that case demonstrate the legal and administrative obstacles facing a Serb family appealing the unilateral termination of occupancy rights. Although the Court declared this case inadmissible *ratione temporis*, the Committee notes that the events detailed in that case have occurred since 1992, when the Covenant was in force in Croatia, and that the situation persists today.

...

904. The Committee urges the State party to take effective measures to accelerate the return and reintegration into Croatian society of all Croatian refugees without discrimination, particularly of ethnic Serbs, by expediting the restitution of their housing, arranging for adequate alternative accommodation or providing them with compensation when restitution is not possible, as explained by the Committee in its General Comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant).

...

911. In view of the very large number of persons affected in the areas of occupancy rights, acquisition of citizenship and other matters resulting from the war and the aftermath of independence, the Committee is of the opinion that the burden on the court system could be significantly reduced by adopting non-discriminatory laws and by streamlining legal and administrative procedures accordingly.

...

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

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- Czech Republic, ICESCR, E/2003/22 (2002) 25 at paras. 75 and 92.

75. The Committee regrets that the Covenant has not been given full effect in the State party's legal order and that most of the rights contained in the Covenant are not justiciable in domestic legal order, in particular, the right to adequate housing, which the State party considers as merely a declaratory non-entitlement right.

...

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

- Ireland, ICESCR, E/2003/22 (2002) 29 at paras. 128 and 139.

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

...

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

- Benin, ICESCR, E/2003/22 (2002) 34 at paras. 165 and 184.

165. The Committee is concerned that, although the Constitution says that men and women have equal rights (art. 26), women continue to face widespread discrimination, especially where access to employment, land and credit and inheritance rights are concerned.

...

184. The Committee requests the State party to take more energetic and realistic steps to counter inequality between the sexes and discrimination against women in the State party, both in law and in practice. It urges the State party to adopt swiftly the Family Code that has been under discussion in Parliament since 1995.

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/2003/22 (2002) 39 at paras. 217 and 234.

217. The Committee is concerned about the persistence of *de facto* discrimination in relation

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to some marginalized and vulnerable groups in society, especially ethnic minorities and persons with disabilities, in various fields, including employment, housing and education. The Committee regrets the unwillingness of the State party to adopt comprehensive legislation on equality and protection from discrimination, in accordance with article 2, paragraph 2, and article 3 of the Covenant.

...

234. The Committee urges the State party to take more effective steps to combat *de facto* discrimination, in particular against ethnic minorities and people with disabilities, especially in relation to employment, housing and education. The Committee strongly recommends that the State party enact comprehensive legislation on equality and non-discrimination in British law, in conformity with article 2, paragraph 2, and article 3 of the Covenant.

- Trinidad and Tobago, ICESCR, E/2003/22 (2002) 45 at paras. 276 and 299.

276. The Committee is deeply concerned about the lack of housing programmes to provide the poorest members of society with appropriate accommodation. The Committee is also concerned at the number of urban squatter communities which are exposed to forced evictions, in the light of the highly restrictive legal conditions governing their right to tenure.

...

299. The Committee urges the State party to devise a housing strategy for disadvantaged and marginalized groups and to provide low-cost housing units to them. The Committee also urges the State party to provide more disaggregated data on squatters, as well as to adopt measures to improve their legal position with regard to their security of tenure. In addition, the Committee recommends that the State party take into account the Committee's general comments no. 4 (1991) on the right to adequate housing (art. 11, para. 1 of the Covenant) and no. 7 (1997) on forced evictions.

- Poland, ICESCR, E/2003/22 (2002) 54 at paras. 367 and 389.

367. The Committee is...concerned that, under existing legislation, forced evictions may be carried out in the State party without the provision of alternative lodging, as stipulated in the Committee's general comment no. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions.

...

389. The Committee reiterates its previous recommendation that the conditions for permissible forced evictions be specified in law, with provisions that address the need for alternative lodging for those evicted, as provided for in the committee's general comment no. 7 on forced evictions.

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- Estonia, ICESCR, E/2003/22 (2002) 68 at paras. 508 and 530.

508. The Committee expresses its concern that forced evictions may be carried out in the State party without provision for alternative lodging or adequate compensation.

...

530. The Committee further recommends that the State party ensure that alternative lodging or adequate compensation is provided for people who are evicted from their homes and, in this regard, refers the State party to the guidelines set out in its general comment no. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions.
- Luxembourg, ICESCR, E/2004/22 (2003) 24 at paras. 77 and 89.

77. While acknowledging that economic, social and cultural rights of asylum-seekers are generally protected in the State party, the Committee is concerned about the considerable length of time taken to process applications for asylum.

...

89. The Committee recommends that the State party take effective measures to expedite the processing of applications for asylum so that the persons concerned may enjoy all the rights that refugee status confers upon them.
- Brazil, ICESCR, E/2004/22 (2003) 28 at paras. 124, 138, 141-143, 147, 164-166 and 168.

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

...

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

...

141. The Committee notes with concern that the State party has not facilitated the access to, and adequate provision of, housing credit and subsidies to low-income families, especially disadvantaged and marginalized groups.

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.

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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.

...

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

...

164. The Committee urges the State party to provide access to housing credit and subsidies to low-income families and disadvantaged and marginalized groups.

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.

...

168. The Committee urges the State party to undertake appropriate measures to ensure effective realization of agrarian reform.

- Israel, ICESCR, E/2004/22 (2003) 42 at paras. 249, 266, 267, 269, 270, 282, 283, 285 and 286.

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

...

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266. The Committee expresses concern about the fact that the Jewish religious courts' interpretation of personal status law with respect to divorce is discriminatory as regards women, especially the regulation that allows the husband to remarry even when the wife is opposed to the divorce, whilst the same rules do not apply to the wife.

267. The Committee is particularly concerned about information received concerning the construction of a "security fence" around the occupied territories, which allegedly would infringe upon the surface area of the occupied territories and which would limit or even impede access by Palestinian individuals and communities to land and water resources. The Committee regrets the fact that the delegation did not respond to questions by the Committee concerning the security fence or wall during the dialogue.

...

269. The Committee reiterates its grave concern about the continuing practices by the State party of home demolitions, land confiscations and restrictions on residency rights, and its adoption of policies resulting in sub-standard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old city.^{17/} Furthermore, the Committee is gravely concerned about the continuing practice of expropriation of Palestinian properties and resources for the expansion of Israeli settlements in the occupied territories.^{18/}

270. The Committee continues to be concerned about the situation of Bedouins residing in Israel, and in particular those living in villages that are still unrecognized.^{19/} Despite measures by the State party to close the gap between the living conditions of Jews and Bedouins in the Negev, the quality of living and housing conditions of the Bedouins continues to be significantly lower, with limited or no access to water, electricity and sanitation. Moreover, Bedouins continue to be subjected on a regular basis to land confiscations, house demolitions, fines for building "illegally", destruction of agricultural crops, fields and trees, and systematic harassment and persecution by the Green Patrol, in order to force them to resettle in "townships". The Committee is also concerned that the present compensation scheme for Bedouins who agree to resettle in "townships" is inadequate.

...

282. The Committee recommends that the State party take steps to modify the Jewish religious courts' interpretation of the law concerning divorce to ensure equality between men and women, as provided for in article 3 of the Covenant.

283. The Committee urges the State party to ensure that any security measure it adopts does not disproportionately limit or impede the enjoyment of economic, social and cultural rights enshrined in the Covenant, in particular access to land and water resources by Palestinians, and that adequate restitution and compensation are provided to those who have incurred damage to and loss of property and lands as a result of these security measures.

...

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285. Reiterating its earlier recommendation,^{24/} the Committee urges the State party to cease the practices of facilitating the building of Israeli settlements, expropriating land, water and resources, demolishing houses and carrying out arbitrary evictions. The Committee also urges the State party to take immediate steps to respect and implement the right to an adequate standard of living, including housing, of the Palestinian residents of East Jerusalem and the Palestinian Arabs in cities with mixed populations. The Committee recalls in this connection its general comments No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant) and No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions)...

286. The Committee...urges the State party to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, and to desist from the destruction and damaging of agricultural crops and fields, including in unrecognized villages. The Committee further encourages the State party to adopt an adequate compensation scheme for Bedouins who have agreed to resettle in “townships”.

Notes

...

^{17/} [*Official Records of the Economic and Social Council*], 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV, para. 248.

^{18/} *Ibid.*, para. 250.

^{19/} [*Official Records of the Economic and Social Council*, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV], para. 254.

...

^{24/} [*Official Records of the Economic and Social Council*, 1999, Supplement No. 2 (E/1999/22-E/C.12/1998/26), chap. IV], para. 267.

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- Yemen, ICESCR, E/2004/22 (2003) 55 at paras. 352 and 371.

352. Despite the measures taken by the State party to advance the status of women in Yemen, the Committee is concerned about the existence of certain customs, traditions and cultural practices which lead to substantial discrimination against women and girls and that there are still persisting patterns of discrimination, particularly in family and personal status law, as well as inheritance law...

...

371. The Committee strongly recommends that the State party amend existing legislation to bring it in line with the provisions of article 3 of the Covenant...

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- Guatemala, ICESCR, E/2004/22 (2003) 59 at paras. 403, 404, 416, 421, 422 and 434.

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.

404. The Committee is concerned about the *de facto* inequality between women and men, which is perpetuated by traditional prejudices and social conditions, in spite of an important number of legal instruments adopted by the State party.

...

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.

...

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.

422. The Committee calls upon the State party to ensure equality between men and women in all spheres of life, in particular by taking effective measures to combat discrimination in the education of the girl-child, in access to employment, in equal pay for work of equal value and in access to land and credit services...

...

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

Notes

...

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

- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 453, 454, 459, 470, 481, 482, 487 and 498.

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

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rights, has still not been implemented.

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

...

459. The Committee notes with concern that the informal economy in the State party has grown considerably and that illegal migration of labour is widespread, which means that a large number of people work without legal and social protection.

...

470. The Committee is concerned about delays in the payment of compensation for houses destroyed during military operations in Chechnya.

...

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.

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

...

487. The Committee recommends that the State party strengthen its efforts to protect the human rights of workers in the informal labour market with a view to creating the conditions for unimpeded implementation of migrants' rights, and protecting migrants' legal rights and interests as indicated in the State party's report (para. 69). The Committee also encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

...

498. The Committee calls upon the State party to guarantee that timely and adequate compensation is duly provided to all persons whose property has been destroyed during the military operations in Chechnya.

- Greece, ICESCR, E/2005/22 (2004) 23 at paras. 127, 141, 142, 162 and 164.

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

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subsidies and interest-free loans for the purchase of houses.

...

141. The Committee is gravely concerned about numerous reports on the extrajudicial demolition of dwellings and forced evictions of Roma from their settlements by municipal authorities, often under the pretext of construction projects for the 2004 Olympic Games, and frequently without payment of adequate compensation or provision of alternative housing.

142. The Committee is deeply concerned that many Roma reportedly live in sub-standard conditions, as their settlements often lack access to running water, electricity, sanitation and other essential services.

...

162. The Committee urges the State party to ensure that forced evictions are carried out in accordance with the guidelines defined in the Committee's general comment No. 7 (1997), on the right to adequate housing (article 11, paragraph 1 of the covenant): forced evictions and that those affected have a right to adequate compensation for the loss of any property, both personal and real, and are provided with adequate alternative housing meeting their specific cultural needs.

...

164. The Committee urges the State party to take measures towards providing for all the Roma, including itinerant and non-Greek Roma, adequate and affordable housing with legal security of tenure, access to safe drinking water, adequate sanitation, electricity and other essential services, and meeting their specific cultural needs. The Committee recommends that the State party ensure the participation of Roma representatives in the assessment of the Integrated Action Plan for the Social Integration of Greek Roma...

- Kuwait, ICESCR, E/2005/22 (2004) 29 at paras. 187 and 206.

187. Despite the various measures taken by the State party to improve the situation of women, the Committee is concerned about the persistence of *de jure* and *de facto* discrimination against women, particularly with regard to their participation in the political decision-making process, especially in the Parliament, as well as in their enjoyment of economic, social and cultural rights.

...

206. The Committee urges the State party to continue to take all necessary measures to grant women the right to vote. The Committee also urges that the State party harmonize its domestic legislation with the principles and provisions of the Covenant with regard to the law on personal status and the Civil Code so as to abolish differences with regard to rights and responsibilities between women and men and to achieve full gender equality.

- Spain, ICESCR, E/2005/22 (2004) 34 at paras. 243 and 261.

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243. The Committee is concerned about the growing problem of homelessness in the State party, as described in its fourth periodic report (E/C.12/4/Add.11, para 386), and of people affected by forced evictions.

...

261. The Committee calls upon the State party to strengthen its efforts under the National Plan of Action for Social Inclusion to provide assistance to homeless persons and to undertake a study on the problem of homelessness so as to acquire a more accurate picture of the problem and its root causes. It also requests the State party...to ensure that any forced evictions carried out comply with the guidelines set out in the Committee's general comment No. 7 (1997) on the right to adequate housing (article 11, paragraph 1, of the Covenant): forced evictions.

- Ecuador, ICESCR, E/2005/22 (2004) 39 at paras. 278, 281, 293, 294, 301, 304, 318 and 319.

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.

...

281. The Committee expresses its concern about the *de facto* inequality that exists between men and women in Ecuadorian society despite legislative guarantees of equality, owing to the perpetuation of traditional stereotypes and the lack of implementation of legislative guarantees of equality. Such inequality is reflected in unequal wages for equal work, the high percentage of illiteracy amongst women particularly in rural areas, the low level of representation of women in public service and administration, and limited access to credit, professional work and skilled trades. The Committee is also concerned that insufficient resources are allocated to programmes that aim at eliminating gender-based discrimination.

...

293. The Committee is concerned about the poor housing conditions, the considerable housing shortage and the absence of effective measures to provide social housing for low-income families and the disadvantaged and marginalized groups.

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

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lands.

...

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.

...

304. The Committee urges the State party to adopt all effective measures to ensure equality between men and women in all fields of life as provided for in article 2, paragraph 2 and article 3 of the Covenant, including through implementing the principle of equal pay for work of equal value as provided for in the Covenant, increasing the level or representation of women in public services and reducing the wage gap between men and women...

...

318. The Committee urges the State party to take all the appropriate measures to deal with the problem of homelessness, to ensure access to housing credit and subsidies for the low-income families, the disadvantaged and marginalized groups and to improve water and sanitation facilities of existing housing units.

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 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...

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

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

...

408. The Committee encourages the State party to consider enacting specific legislation providing for the right to housing. The Committee also recommends, in line with the

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

- Italy, ICESCR, E/2005/22 (2004) 54 at paras. 424, 435, 437, 440, 441, 456 and 458.

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

...

435. Reiterating its concluding observations on Italy's third periodic report, the Committee remains concerned about the plight of Roma immigrants living in camps with poor housing, unhygienic sanitary conditions, limited employment prospects and inadequate educational facilities for their children.

...

437. The Committee is also concerned about the continuing increase in rents and the privatization of housing and about the scarcity of adequate social housing units for low-income families while the social fund established to provide housing assistance has been reduced.

...

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

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

...

456. The Committee urges the State party to step up its efforts to build more permanent housing settlements for the Roma immigrants and take all the necessary measures to promote their integration into local communities, offer them job opportunities and make adequate

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educational facilities available to their children.

...

458. The Committee urges the State party to take effective measures to ensure that forced evictions of Roma and tenants who cannot pay their rents comply with the guidelines established by the Committee in its General Comment No. 7 (1997) on the right to adequate housing (article 11, paragraph 1, of the Covenant): forced evictions, and to provide more housing units to cater for the needs of the disadvantaged and marginalized groups, including older persons, people with disabilities and immigrants.

- Azerbaijan, ICESCR, E/2005/22 (2004) 59 at paras. 493 and 519.

493. The Committee is concerned about the illegal occupation by refugees and internally displaced persons of properties belonging to Armenians and other ethnic minorities. The Committee is also concerned about the lack of adequate social housing units, particularly in Baku...

...

519. The Committee recommends that the State party take corrective measures to ensure that Armenians and other ethnic minorities whose properties are illegally occupied by refugees and internally displaced persons are provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee and its General Comment No. 7 (1997) on the right to adequate housing (article 11, paragraph 1, of the Covenant):forced evictions. The Committee also recommends that the State party take the necessary measures to guarantee the right to adequate housing to all persons residing under its jurisdiction and to address the problem of the lack of adequate social housing units in the most expedient manner possible, particularly in Baku. In this connection, the Committee wishes to draw the attention of the State party to its General Comment No. 4 (1991) on the right to adequate housing (article 11, paragraph 1, of the Covenant)...

- Chile, ICESCR, E/2005/22 (2004) 67 at paras. 539-541, 548, 551, 556, 559-561, 572 and 577.

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

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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.

...

548. The Committee notes that section 349 of the Commercial Code discriminates against women who are not covered by the marital regime of the individual ownership of property.

...

551. Despite the construction of many housing units, the Committee is concerned at the large number of people living in illegal settlements in the State party who are, consequently, liable to forced evictions.

...

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

...

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 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

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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.

...

572. The Committee recommends that the State party amend section 349 of the Commercial Code to ensure that women can exercise their commercial activities under equal conditions with men.

...

577. The Committee urges the State party to take effective measures to promote the right to housing, especially among the disadvantaged and marginalized groups, and to ensure that adequate protection is afforded to people living in illegal settlements who are liable to forced evictions. The Committee recalls in this connection its General Comments No. 4 (1991) on the right to adequate housing (article 11, paragraph 1, of the Covenant) and No. 7 (1997) on the right to adequate housing (article 11, paragraph 1, of the Covenant): forced evictions...

- Zambia, ICESCR, E/2006/22 (2005) 19 at paras. 84, 92, 96, 107, 114 and 119.

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

...

92. The Committee is concerned about the large number of widows and orphans, a situation further exacerbated by the HIV/AIDS pandemic. It is also concerned about the harsh living conditions of widows and girl orphans due to, *inter alia*, harmful traditional practices such as “widow-cleansing”, early marriages and denial of inheritance.

...

96. The Committee is concerned that customary land, which represents over 80 per cent of all land, is traditionally inherited by the man’s family in accordance with rules of male primogeniture, to the detriment of widows and in particular, girl children.

...

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

...

114. The Committee recommends that the State party take adequate measures to address the difficulties faced by widows and orphans, and in particular to eliminate harmful traditional practices.

...

119. The Committee recommends that the State party ensure that the draft land policy with regard to the allocation of land to women does not contradict articles 3 and 11 of the Covenant.

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- China, ICESCR, E/2006/22 (2005) 25 at paras. 137, 144, 160, 175 and 190.

137. The Committee welcomes the State Council's Directive No. 1/2004 to safeguard farmers' rights and interests and Directive No. 1/2005, waiving taxes on animal husbandry for all regions and agricultural tax for 592 counties listed as priority counties for poverty alleviation.

...

144. The Committee notes with deep concern the *de facto* discrimination against internal migrants in the fields of employment, social security, health services, housing and education that indirectly result from *inter alia*, the restrictive national household registration system (*hukou*) which continues to be in place despite official announcements regarding reforms.

...

160. The Committee is concerned about the reports of forced evictions and insufficient measures to provide compensation or alternative housing to those who have been removed from their homes in the context of urban development projects as well as of rural development schemes such as the Three Gorges Project. The Committee is concerned about the number of forced evictions and demolitions that have occurred in anticipation of the 2008 Olympic Games to be hosted by the State party. The Committee further expresses concern about the lack of effective consultations and legal redress for persons affected by forced evictions and demolitions, including those of historic structures, buildings and homes in Lhasa, Tibet. The Committee also regrets that insufficient information was provided on the extent and causes of homelessness in the State party.

...

175. The Committee calls upon the State party to implement its decision to dismantle the *hukou* system of national household registration and to ensure that in any system that replaces it, internal migrants will be able to enjoy the same work, social security, housing, health and education benefits enjoyed by those in urban areas.

...

190. The Committee recommends that the State party take immediate measures to enforce laws and regulations prohibiting forced evictions and ensure that persons evicted from their homes be provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on the right to adequate housing (art. 11, para 1. of the Covenant): forced evictions. The Committee also recommends that, prior to implementing development projects, the State party should hold open, effective and meaningful consultations with affected residents. In this connection, the Committee wishes to draw the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1 of the Covenant)...

- Serbia and Montenegro, ICESCR, E/2006/22 (2005) 41 at paras. 274, 290, 291, 302, 317 and 318.

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

...

290. The Committee is gravely concerned about the poor conditions in which thousands of Roma families live in substandard informal settlements without access to basic services such as electricity, running water, sewage facilities, medical care and schools.

291. The Committee is deeply concerned that many refugees, internally displaced persons and Roma are being evicted from illegal collective centres and informal settlements which are being closed down without sufficient provision of adequate alternative housing.

...

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

...

317. The Committee urges the State party to ensure, by legalizing and improving the infrastructure of existing settlements or through social housing programmes, that Roma have access to adequate and affordable housing with legal security of tenure, safe drinking water, adequate sanitation, electricity and other essential services.

318. The Committee urges the State party to ensure that adequate alternative housing is provided whenever forced evictions take place, in line with the Committee's general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions...

- Norway, ICESCR, E/2006/22 (2005) 48 at paras. 337, 345, 354, 364 and 369.

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

...

345. The Committee notes with concern the increasing number of evictions carried out in the State party, especially in Oslo, mainly as a consequence of unpaid rent. The Committee is also concerned that the disadvantaged and marginalized groups in society are particularly affected by the privatization of municipal social housing and rising housing prices. Despite the assistance provided through the State Housing Bank, the Committee is particularly concerned that the number of social housing units for low-income individuals and families

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is far from adequate. It regrets in this regard the lack of information on the number of people living in illegal settlements and whether they are liable to forced eviction and the number of persons on waiting lists for municipal social housing.

...

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

...

364. The Committee urges the State party to ensure that evictions of tenants who cannot pay their rents and of squatters comply with the guidelines established by the Committee in its general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions. Furthermore, the State party should take effective measures, in line with the Committee's general comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant), to provide housing units in sufficient numbers to cater for the needs of low-income families and disadvantaged and marginalized groups...

...

369. The Committee recommends that the State party ensure that every decision to detain a person with a mental disorder for compulsory psychiatric treatment be reviewed promptly by an independent judicial body.

CEDAW

- Fiji, CEDAW, A/57/38 part I (2002) 9 at paras. 66 and 67.

66. The Committee notes with concern that family laws in Fiji contain many discriminatory provisions, and that restrictive divorce laws encourage violence, including suicide. It also notes with concern that the proposed Family Law Bill has not been adopted.

67. The Committee urges the early adoption of the Family Law Bill and calls for the law on family relations of all communities to be brought into conformity with the Constitution and the Convention.

- Uruguay, CEDAW, A/57/38 part I (2002) 23 at paras. 204 and 205.

204. The Committee expresses concern that the Civil Code still contains provisions, including those with respect to early marriage, that discriminate against women.

205. The Committee urges the Government to actively promote the elimination of the discriminatory legal provisions that still exist, particularly in the Civil Code in matters relating to the family, and to bring Uruguayan legislation into line with the Convention,

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including article 16.2 relating to minimum age for marriage.

- Portugal, CEDAW, A/57/38 part I (2002) 35 at paras. 343 and 344.

343. The Committee is concerned at the apparent lack of legal actions or court decisions where the Convention and/or Constitution have been used to claim the right of equality and obtain redress for acts of discrimination.

344. The Committee urges the State party to ensure that adequate mechanisms and access to legal aid are available to enable women to seek redress from the courts on the basis of the Convention and the Constitution.

- Suriname, CEDAW, A/57/38 part II (2002) 82 at paras. 67 and 68.

67. The Committee is concerned at the scarcity of details as to the legal capacity of women, in particular unmarried women, under articles 15 and 16 of the Convention in the report of the State party. It is also concerned at the very low age of marriage for some communities.

68. The Committee urges the State party to review the law on marriage in line with articles 15 and 16 of the Convention...

- Saint Kitts and Nevis, CEDAW, A/57/38 part II (2002) 90 at paras. 109 and 110.

109. The Committee expresses concern about the lack of legal aid for women and the lengthy process which makes it difficult for women to take men to court in order to obtain child support. The Committee is also concerned that such a lengthy process allows men to serve a prison sentence instead of paying maintenance.

110. The Committee urges the State party to take adequate legislative measures to make it easier for women to obtain child support and access to legal aid.

- Tunisia, CEDAW, A/57/38 part II (2002) 102 at para. 184.

184. The Committee commends the State party on the early reform of its Personal Status Code, which abolished polygamy and granted the right to divorce to both spouses, and its reform of the inheritance law. The Committee welcomes the continuing legislative reforms

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by the State party. It welcomes the amendments to the Personal Status Code, which provide women with the capacity to institute legal proceedings in their own name, affirm the principle of equality and partnership between spouses, provide that both parties should cooperate in managing family affairs, prevent manipulation of divorce proceedings by the husband, allow spouses to agree to a joint property regime and grant women the right to give their family name to a child born of an unknown father and the opportunity for gene-testing to prove parenthood...

- Zambia, CEDAW, A/57/38 part II (2002) 107 at paras. 228, 230, 231, 250 and 251.

228. The Committee commends the efforts made by the State party to review existing laws that discriminate against women. It also notes the enactment of the Marriage Act and the Intestate Succession Act, which provide protection for women in marriage and inheritance.

...

230. The Committee expresses concern at the contradictory provisions contained in the Constitution whereby article 11 guarantees the equal status of women and article 23 (4) permits discriminatory laws to exist in the area of personal law, namely: revenue allocation, adoption, marriage, divorce, burial, devolution of property on death, or other matters of personal law and customary law with respect to any matter.

231. The Committee urges the State party to repeal article 23 (4) of the Constitution, which permits discrimination in the area of law which most affects women.

...

250. The Committee expresses concern that marriage and family relations are governed by dual legal systems of statutory and customary law, and that many of these laws are not in harmony with the Convention. It also notes that customary law is mostly unwritten, often administered by male justices without a legal background, and that discrimination against women is not addressed in their decisions.

251. The Committee recommends that statutory law be reformed and customary law is revised and codified to conform with article 16 of the Convention. It also recommends the introduction of programmes on legal education, gender sensitization and human rights for judges.

- Armenia, CEDAW, A/57/38 part III (2002) 150 at paras. 58 and 59.

58. The Committee expresses concern regarding the situation of rural women, including their access to health-care services and income-generating activities.

59. The Committee encourages the State party to develop special policies and programmes

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aimed at the economic empowerment of rural women and their access to health-care services.

- Uganda, CEDAW, A/57/38 part III (2002) 164 at paras. 151-154.

151. ...The Committee...expresses concern that customs and traditional practices, prevalent in rural areas, prevent women from inheriting or acquiring ownership of land and other property.

152. The Committee urges the State party to pay increased attention to the needs of rural women so as to ensure that they benefit from policies and programmes adopted in all spheres, as well as participate in decision-making, have full access to education and health services and credit facilities. The Committee also urges the State party to eliminate all forms of discrimination with respect to the ownership, co-sharing and inheritance of land. It also urges the introduction of measures to address negative customs and traditional practices, especially in rural areas, which affect full enjoyment of the right to property by women.

153. While noting that Article 33 (6) of the Constitution “prohibits laws, customs or traditions which are against the dignity, welfare or interest of women”, the Committee notes with concern the continued existence of legislation, customary laws and practices on inheritance, land ownership, widow inheritance, polygamy, forced marriage, bride price, guardianship of children and the definition of adultery that discriminate against women and conflict with the Constitution and the Convention.

154. The Committee urges the State party, in line with Article 33 (6) of the 1995 Constitution, to amend these laws and prohibit such practices. The Committee requests the State party to work with the relevant ministries and non-governmental organizations, including lawyers’ associations and women’s groups, to create an enabling environment for legal reform and effective law enforcement and legal literacy.

- Guatemala, CEDAW, A/57/38 part III (2002) 171 at para. 177.

177. The Committee commends the State party for the steps taken to introduce co-ownership and the positive measures in granting housing subsidies to female-headed households.

- Greece, CEDAW, A/57/38 part III (2002) 184 at paras. 295 and 296.

295. The Committee is concerned about the marginalization of Muslim women with regard

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to education, employment, and by the non-application of the general law of Greece to the Muslim minority on matters of marriage and inheritance, resulting particularly in the practice of polygamy and repudiation. The Committee is concerned that this situation leads to discrimination against Muslim women and negatively impacts on the realization of their human rights as protected under the Greek Constitution and the Convention.

296. ...The Committee also urges the State party to increase the awareness of Muslim women of their rights and remedies and to ensure that they benefit from the provisions of Greek law.

- Yemen, CEDAW, A/57/38 part III (2002) 200 at paras. 392, 393, 400 and 401.

392. Noting the link between women's subordination in the family and their ability to participate fully at all levels of society, the Committee is concerned about discriminatory provisions in the Law of Personal Status, which permits polygamy and sets differential standards for women and men in marriage and family life. The Committee is also concerned that the 1999 amendment to the Law of Personal Status has led to further discrimination against women in the family by denying women the right to equality in marriage and divorce.

393. The Committee urges the State party to review existing legislation and amend discriminatory provisions affecting women's rights within the family in order to bring them into harmony with the Constitution and the Convention. The Committee urges the State party to ensure that laws, policies and programmes with regard to the family affirm and incorporate the principle of equality and partnership between women and men and the full realization of women's human rights. The Committee also encourages the State party to obtain information on comparative jurisprudence, where the link between Islamic law has been codified in legislative reforms and Court decisions.

...

400. In view of the fact that rural women constitute the majority of women in Yemen, the Committee notes with concern that the traditional division of labour in agricultural production disadvantages women and that, for cultural and social reasons, women do not control the means of production and face difficulties in obtaining loans...

401. The Committee urges the State party to take special measures to support the integration of rural women in all sectoral policies and programmes and to eliminate discriminatory practices through awareness-raising and educational programmes targeted at women and men...

- Albania, CEDAW, A/58/38 part I (2003) 13 at paras. 76 and 77.

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76. The Committee is concerned about the situation of rural women, as the majority of the female population, who are discriminated against in practice with respect to owning and inheriting property, and who are disadvantaged by poverty, poor infrastructures, lack of credit, and limited access to education, health-care services and social insurance...

77. The Committee urges the State party to give full attention to the needs of rural women and to develop comprehensive policies and programmes aimed at their economic empowerment, ensuring their access to productive resources, capital and credit, as well as education, health-care services, social insurance and decision-making. The Committee requests the State party to undertake a study of the ownership and inheritance of land by rural women and of their general economic, educational and social situation...

- Congo, CEDAW, A/58/38 part I (2003) 29 at paras. 160, 161, 178, 179, 182 and 183.

160. The Committee expresses concern at the continued existence of legal pluralism with discriminatory components and obsolete provisions in customary law and statutory law, the latter including criminal law regarding adultery; the labour and taxation laws; and family law, particularly with regard to the difference in ages at which women and men may enter into marriage.

161. The Committee urges the State party to accelerate the process of law reform in order to bring its laws into conformity with the provisions of the Convention and with the principle of equality between women and men enshrined in its Constitution.

...

178. The Committee expresses concern about the situation of rural women, particularly in view of their extreme poverty and lack of access to health, education, credit facilities and community services.

179. The Committee urges the State party to pay special attention to the needs of rural women, ensuring that they participate in decision-making and have full access to education, health services and credit facilities. The Committee also urges the State party to take appropriate measures, including review of legislation, in order to eliminate all forms of discrimination with respect to ownership, co-sharing and inheritance of land.

...

182. The Committee expresses concern about the continued existence of discriminatory family laws and traditional practices, including those related to dowries and adultery. The Committee is particularly concerned about the practice of pre-marriage in view of the fact that Congolese law, while recognizing the practice, does not stipulate a minimum age for pre-marriage partners.

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183. While noting the State party's willingness to abolish pre-marriage, the Committee recommends, as an interim measure, that the minimum age for pre-marriage be brought in line with the legal age for marriage and that all measures be taken to ensure that women in both pre-marriage and marriage enjoy equal rights within and upon dissolution of the union. It also urges the introduction without delay of measures to eliminate negative customs and traditional practices which affect women's full enjoyment of their human rights. The Committee recommends that discriminatory family laws be phased out and that a clear time frame be established for achieving this.

See also:

- Kenya, CEDAW, A/58/38 part I (2003) 35 at paras. 223 and 224.
- Kenya, CEDAW, A/58/38 part I (2003) 35 at paras. 207 and 208.

207. The Committee is concerned that legislative provisions as well as customary laws and practices that discriminate against women in areas such as marriage, divorce, burial and devolution of property on death continue to exist. The Committee is further concerned at the continued existence of multiple laws governing marriage and divorce.

208. The Committee recommends that the State party take appropriate action to eliminate all discriminatory laws, practices and traditions and to ensure women's equality with men particularly in marriage and divorce, burial and devolution of property upon death in accordance with the provisions of the Convention. In this regard, the Committee recommends speedy enactment of the relevant bills, including the Domestic violence (family protection) bill of 2002; the Equality bill of 2001; the National Commission on Gender and Development bill of 2002; the Criminal law amendment bill of 2002; the HIV/AIDS Prevention and Control bill of 2002; and the Public Offices Code of Ethics bill of 2002. The Committee also recommends that the State party's relevant ministries continue working with civil society, including non-governmental organizations, in order to create an enabling environment for legal reform, effective law enforcement and legal literacy.

- Luxembourg, CEDAW, A/58/38 part I (2003) 47 at paras. 318 and 319.

318. The Committee reiterates its concern expressed after considering the third periodic report with regard to the law on the waiting period of 300 days before a widow or divorced woman can remarry.

319. The Committee urges the State party to take measures to amend that discriminatory legislation without delay.

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- Canada, CEDAW, A/58/38 part I (2003) 53 at paras. 355, 356, 361 and 362.

355. While appreciating the fact that funds are available under the Court Challenges Programme for test cases under the equality guarantee in the Canadian Charter of Rights and Freedoms, the Committee is concerned that the Programme applies only to federal laws and programmes. The Committee is also concerned that federal legal aid funds in civil and family law and for legal matters related to poverty issues, in contrast to legal aid for criminal cases, are channelled to the provinces and territories at their discretion. That, in practice, turns out to have a disproportionately restrictive impact on women seeking legal redress as compared with men.

356. The Committee urges the State party to find ways for making funds available for equality test cases under all jurisdictions and for ensuring that sufficient legal aid is available to women under all jurisdictions when seeking redress in issues of civil and family law and in those relating to poverty issues.

...

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 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.

- Norway, CEDAW, A/58/38 part I (2003) 61 at paras. 425 and 426.

425. While noting that the State party has placed the issue of forced marriages and female

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genital mutilation on the political agenda for the past few years, and has developed action plans and taken other political measures, the Committee is concerned at the extent of these practices.

426. The Committee requests the State party to continue its efforts to eradicate those practices.

- Brazil, CEDAW, A/58/38 part II (2003) 93 at para. 93.

93. The Committee commends the State party for a number of legal reforms introduced since the ratification of the Convention in 1984, including the law on paternity suits involving children born out of wedlock; the law on the right to family planning; the law that criminalizes sexual harassment; and the law that provides for restraining orders in domestic violence cases. The Committee also welcomes the recent reform of the Civil Code that introduces equality between spouses in gender-neutral terms, but acknowledges that some anachronistic provisions remain.

- Morocco, CEDAW, A/58/38 part II (2003) 101 at paras. 162, 163, 174 and 175.

162. The Committee is concerned about the many remaining discriminatory provisions in the Personal Status Code, which sets different standards for women and men in issues related to marriage and family life; a different minimum age of marriage for women and men; restrictions for women in obtaining a divorce and the risk of repudiation. The law provides for a different age for guardianship of girls and boys and stipulates restrictions on women in becoming legal guardians of their children. A bill is still pending adoption by Parliament concerning a Moroccan woman's right to pass on her nationality to her children when she is married to a foreigner. The Committee is also concerned about the legal difficulties faced by single mothers.

163. The Committee urges the State party to continue, and to expedite, the process of legislative reform within the framework of the Royal Commission on the Personal Status Code and to amend discriminatory provisions affecting women's rights within the family in relation to divorce and repudiation, legal guardianship and the age for guardianship in order to bring them into harmony with the Convention. The Committee urges the State party to take measures to raise the minimum age of marriage for women and men to 18 years, in line with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The Committee urges the State party to expedite

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the adoption of the proposed bill on nationality and to withdraw its reservation concerning article 9, paragraph 2, of the Convention. The Committee urges the State party to ensure that laws with regard to the status of women in the family as well as single mothers affirm and incorporate the principle of gender equality and partnership between women and men and the full realization of women's human rights. The Committee encourages the State party to reform relevant existing laws in consultation with women's groups.

...

174. ...The Committee notes...with concern that women are discriminated against in their access to loans and other forms of financial support as well as in the enjoyment of their right to property.

175. ...The Committee...calls on the State party to ensure that women, particularly in rural areas, have full and equal access to loans and other forms of financial support and that they face no obstacles in the enjoyment of their right to ownership of land.

- Slovenia, CEDAW, A/58/38 part II (2003) 109 at para. 201.

201. The Committee welcomes the introduction by the State party of the compensatory alimony scheme which provides compensation for children in the event that those liable to pay alimony fail to do so. The Committee also welcomes the efforts to encourage women's entrepreneurship.

- Ecuador, CEDAW, A/58/38 part II (2003) 122 at paras. 301 and 302.

301. Although the Committee welcomes with satisfaction the laws recently adopted and the legislative reforms and bills submitted to the National Congress, it is concerned that discriminatory provisions still remain in criminal and civil law, family law in particular. Furthermore, the Committee is concerned at the disparity between the *de jure* and *de facto* situation regarding legal protection for women...

302. The Committee urges the State party to repeal the remaining discriminatory provisions in its criminal, civil and family law to ensure the enforcement of laws prohibiting discrimination against women, and to streamline procedures for review of the compatibility of those laws with the Convention, thereby strengthening its political will to incorporate a gender perspective in the formulation and enforcement of laws...

- Japan, CEDAW, A/58/38 part II (2003) 130 at paras. 361, 362, 371 and 372.

361. ...The Committee is...concerned about the particular situation of foreign women who

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experience domestic violence and whose immigration status might depend on their living together with their spouse. The Committee is concerned that fear of repatriation might be a deterrent for those women to seek assistance or take steps to seek separation or divorce...

362. ...The Committee recommends that revocation of residence permits of foreign but separated married women who experience domestic violence be undertaken only after a full assessment of the impact of such measures on those women...

...

371. The Committee expresses concern that the Civil Code still contains discriminatory provisions, including those with respect to the minimum age for marriage, the waiting period required for women to remarry after divorce and the choice of surnames for married couples. It is also concerned about discrimination in law and administrative practice against children born out of wedlock with regard to registration and inheritance rights and the resulting considerable impact on women.

372. The Committee requests the State party to repeal discriminatory legal provisions that still exist in the Civil Code and to bring legislation and administrative practice into line with the Convention.

- New Zealand, CEDAW, A/58/38 part II (2003) 138 at paras. 419-422.

419. The Committee notes with concern that women face difficulties in accessing legal services, *inter alia*, because of the high fee for civil court proceedings.

420. The Committee urges the State party to take measures to lower the threshold for women to access legal services, *inter alia*, through the implementation of an adequate legal aid scheme.

421. While applauding the State party's progressive disability strategy, the Committee is concerned that discrimination against women with disabilities still exists, particularly in the areas of loans, employment and childcare, and about the situations of economic hardship they may encounter. The Committee is also concerned about the lack of economic independence of married women with disabilities.

422. The Committee recommends that the State party take appropriate measures to ensure that disabled women do not suffer from discrimination, in particular in the areas of employment and access to health care and loans. It also recommends that the State party pay attention to the situation of disabled married women with a view to ensuring their economic independence.

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- Kuwait, CEDAW, A/59/38 part I (2004) 15 at paras. 66 and 67.

66. The Committee expresses concern at the continuing existence of *de jure* discrimination against women in various laws, including the Nationality Act, the Personal Status Act, the Civil Code and the Private Sector Employment Act. In particular, the Committee is concerned that the Nationality Act allows Kuwaiti women to transfer their nationality to their children only in specific circumstances, such as when the nationality of the father is unknown or if he is stateless or deceased, or after an irrevocable divorce. The Committee is also concerned that provisions in the Personal Status Act and the Civil Code establish different rights and responsibilities for women and men in issues related to marriage and family relations, including in regard to the minimum age of marriage for women and men; divorce; and guardianship of children.

67. The Committee calls upon the State party to undertake a comprehensive review of all existing laws, including the Nationality Act, and to amend or repeal discriminatory provisions so as to ensure compliance with the provisions of the Convention. The Committee urges the State party to raise the minimum age of marriage for women and men to 18 years, in line with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

- Bhutan, CEDAW, A/59/38 part I (2004) 21 at paras. 125 and 126.

125. The Committee is concerned about the practice of common-law marriages, which allows girls to be married at 15 years of age, while the statutory age of marriage is 18. It is also concerned about the fact that restrictive citizenship laws might prevent women from freely choosing a spouse.

126. The Committee urges the State party to eliminate the practice of common-law marriages and ensure that marriages are contracted under the 1980 Marriage Act, amended in 1996, which raised the legal age for marriage to 18 years for both sexes so as to comply with article 16 (b) of the Convention, requiring free and full consent to enter into marriage. The Committee also urges the State party to take all appropriate measures to end the practice of forced marriages. The Committee recommends that the State party amend its citizenship and nationality laws to bring them into conformity with article 9 of the Convention.

- Kyrgyzstan, CEDAW, A/59/38 part I (2004) 28 at paras. 171 and 172.

171. The Committee is concerned that provisions in the laws on land and agrarian reform and in other laws, as well as customs and traditional practices, regarding ownership, transfer and inheritance of land discriminate against women and prevent them from exercising their

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rights to land.

172. The Committee requests the State party to undertake a study on women's *de jure* and *de facto* ownership and inheritance of land...The Committee urges the State party to take appropriate measures, including review and amendment of legislation, awareness-raising and adequate enforcement of the law, to eliminate all forms of discrimination against women with respect to ownership, transfer and inheritance of land.

- Nepal, CEDAW, A/59/38 part I (2004) 34 at paras. 192, 216 and 217.

192. The Committee commends the State party for identifying gender equality as a priority in its national development plan and welcomes new laws and legal reforms, such as the Country Code (Eleventh Amendment) Act, which, *inter alia*, enhances women's right to property; the Legal Aid Act, under which free legal aid is available in cases of abortion, trafficking, sexual exploitation and domestic violence; the Civil Service (First Amendment) Act, containing special provisions with regard to entry regulations, career development and conditions of service for women; and the Local Self-Governance Act, which includes a quota of at least 20 per cent representation by women in local bodies...

...

216. The Committee is concerned that women's access to land is still more limited than that of men.

217. The Committee requests the State party to take appropriate measures to eliminate all forms of discrimination against women with respect to access to land.

- Ethiopia, CEDAW, A/59/38 part I (2004) 42 at paras. 251, 252 and 260.

251. The Committee is concerned about the continuing persistence of entrenched traditional discriminatory practices, including the 80 per cent of girls and women who undergo female genital mutilation and inheritance of a widow with all her property, and strong stereotypical attitudes in respect of the roles and responsibilities of women and men in the family and society, which negatively affect women's enjoyment of their human rights.

252. The Committee urges the State party to increase its efforts to design and implement comprehensive awareness-raising programmes targeting women and men in order to foster a better understanding of equality between women and men at all levels of society, with a view to changing negative social and cultural patterns of conduct and stereotypical attitudes about the roles and responsibilities of women and men in the family and society and to eliminate female genital mutilation and widowhood practices. The Committee also calls upon the State party to periodically review the measures taken in order to better assess their

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impact...The Committee recommends that the State party take action without delay to end all discriminatory traditional practices.

...

260. The Committee urges the State party to expand its specific programmes aimed at enhancing the socio-economic well-being of women and step up its efforts to fully integrate gender perspectives in its sustainable development and poverty reduction programme. It also urges the State party to take measures to ensure that the rights, needs and concerns of rural women are given greater attention and visibility and that rural women participate fully in the formulation, implementation and evaluation of all sectoral policies and programmes. It calls upon the State party to put in place policies to protect women's right to property and to ensure that women have access to land and water resources on an equal basis with men.

- Equatorial Guinea, CEDAW, A/59/38 part II (2004) 126 at paras. 187-192 and 195-198.

187. The Committee expresses concern that, while article 13 of the Constitution guarantees equality between women and men, no specific definition of discrimination has been incorporated into domestic legislation. The Committee is also concerned about the lack or insufficiency of legislation in important areas covered by the Convention, such as violence against women and civil and family matters.

188. The Committee recommends that a definition of discrimination against women in line with that set forth in article 1 of the Convention be included in the Constitution or other appropriate legislation and urges the State party to give high priority to putting in place comprehensive legislation in conformity with the Convention.

189. The Committee is concerned that widespread poverty among women and poor socio-economic conditions are among the causes of the violation of women's human rights and discrimination against women. The Committee is especially concerned about the situation of rural women, particularly in view of their extreme poverty and lack of access to health care, education, credit facilities and community services.

190. The Committee urges the State party to make the promotion of gender equality an explicit component of its national development plans and policies, and in particular those aimed at poverty alleviation and sustainable development. It urges the State party to pay special attention to the needs of rural women, ensuring that they participate in decision-making processes and have full access to education, health services and credit facilities. The Committee also urges the State party to take appropriate measures to eliminate all forms of discrimination against women with respect to ownership and inheritance of land...

191. The Committee is concerned about the existence of the dual legal system of civil law and customary law, which results in continuing discrimination against women, particularly

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in the field of marriage and family relations. The Committee is also concerned about the lack of legislation regulating customary marriages and other aspects of family law that discriminate against women, including in respect of polygamy, inheritance and child custody, and that efforts to adopt legislation regulating customary marriages have so far not been successful. The Committee is further concerned that most women lack the necessary information and resources to gain access to the civil courts and are still subject to the jurisdiction of traditional courts that apply customary law.

192. The Committee urges the State party to accelerate the process of law reform to remove inconsistencies between civil law and customary law, including by enacting legislation and ensuring that any conflict of law with regard to women's rights to equality and non-discrimination is resolved in full compliance with the provisions of the Convention and general recommendation 21, on equality in marriage and family relations. In this regard, the Committee urges the State party to put in effect measures to discourage polygamy and to ensure women's equal rights in inheritance and child custody. The Committee further urges the State party to put in place measures to ensure women's access to the civil courts, including raising awareness on available legal remedies and the provision of legal aid.

...

195. The Committee is concerned about the persistence of deep-rooted adverse cultural norms, customs and traditions, including forced and early marriage, widowhood practices, levirate and the use of the dowry, as well as the prevalence of stereotypes that discriminate against women and constitute serious obstacles to women's enjoyment of their human rights. The Committee is concerned about the State party's limited efforts to directly address such discriminatory cultural practices and stereotypes and its position that women themselves are primarily responsible for changing their position of disadvantage.

196. The Committee urges the introduction without delay of measures to modify or eliminate customs and cultural and traditional practices that discriminate against women so as to promote women's full enjoyment of their human rights in conformity with articles 2 (f) and 5 (a) of the Convention. The Committee encourages the State party to undertake such efforts in collaboration with civil society organizations, women's non-governmental organizations and community leaders and to increase its efforts to design and implement comprehensive education and awareness-raising programmes targeting women and men at all levels of society, with a view to changing discriminatory social and cultural patterns of conduct about the roles and responsibilities of women and men in the family and in society, and to creating an enabling and supportive environment for women to exercise their human rights. The Committee urges the State party to address cultural and traditional customs and practices such as forced and early marriages, discriminatory widowhood practices, levirate and the use of the dowry through effective measures aimed at their elimination. It further calls upon the State party to periodically review the measures taken to assess their impact and to take appropriate remedial measures...

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197. While welcoming the abolition, by presidential decree, of imprisonment of women for non-repayment of dowries following separation or divorce from their husbands, the Committee remains concerned about lack of knowledge and implementation of the decree.

198. The Committee recommends that the State party put in place measures to raise awareness about the decree prohibiting imprisonment of women for non-repayment of dowries.

- Bangladesh, CEDAW, A/59/38 part II (2004) 134 at paras. 232, 247 and 248.

232. The Committee welcomes progress achieved in the integration of women in the economy of the country, particularly through the introduction of innovative microcredit schemes for women.

...

247. The Committee is concerned about the unequal status of Bangladeshi women within the family, particularly in matters related to marriage, divorce, custody, alimony and property inheritance. The Committee expresses concern that personal laws, derived from religious precepts which are discriminatory to women, continue to prevail in the country and that no uniform Family Code is in place.

248. The Committee urges the State party to adopt without delay a uniform Family Code that fully complies with the provisions of the Convention and general recommendation 21 on equality in marriage and family relations, as a way to protect the rights of all Bangladeshi women in matters related to marriage, divorce, custody, alimony and property inheritance. It recommends that the State party step up its efforts to provide awareness-raising and training, including on the importance of a uniform Family Code and the State party's obligations under the Convention, to community leaders.

- Spain, CEDAW, A/59/38 part II (2004) 149 at paras. 344 and 345.

344. The Committee is concerned that Roma women remain in a vulnerable and marginalized situation, especially with regard to education, employment, housing and health.

345. The Committee recommends that the State party promote and protect the human rights of Roma women, in particular with regard to their access to education, employment, housing and health.

- Argentina, CEDAW, A/59/38 part II (2004) 155 at paras. 376 and 377.

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376. The Committee is concerned about the situation of rural women, particularly in view of their extreme poverty and lack of access to health care, education, credit facilities and community services.

377. The Committee urges the State party to pay special attention to the needs of rural women, ensuring that they participate in decision-making processes and have full access to education, health services and credit facilities.

- Samoa, CEDAW, A/60/38 part I (2005) 9 at paras. 60 and 61.

60. The Committee is concerned about the persistence of discriminatory provisions in family law, especially in regard to marriage, as well as the persistence of traditions that discriminate against women and girls. In particular, the Committee is concerned at the age of consent to marriage for girls being 16 years, whereas it is 18 for boys, at the fault-based divorce system and at the lack of legislation on the division of marital property.

61. The Committee urges the State party to give high priority to the planned revision of the law governing marriage, its dissolution and family relations so as to ensure compliance with article 16 of the Convention and in line with the Committee's general recommendation 23 on marriage and family relations. The Committee also recommends that the State party undertake awareness-raising measures to address cultural patterns of conduct that are discriminatory against women and girls in these areas.

- Lao People's Democratic Republic, CEDAW, A/60/38 part I (2005) 16 at paras. 92 and 93.

92. While noting that 80 per cent of the population lives in rural areas, the Committee is deeply concerned about the pervasive poverty and underdevelopment of women, especially in rural and ethnic minority communities...While welcoming the reinvestigation into the matter of land titling, the Committee is concerned that the current reinvestigation and the reissuance of land titles are limited to nine provinces...

93. The Committee urges the State party to accelerate its plan to eradicate poverty among women, especially rural and ethnic minority women, by more actively seeking international assistance and at the same time by applying gender perspectives in all development programmes and fully integrating women into decision-making on those programmes, as well as in their implementation processes...The Committee recommends that the reinvestigation and re-registration of land titles be carried out in all provinces, with the expected result of eradicating discrimination against women...

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- Algeria, CEDAW, A/60/38 part I (2005) 23 at paras. 141-146.

141. The Committee reiterates its concern that the State party continues to have reservations to articles 2, 9 (2), 15 (4) and 16. The Committee notes that reservations to articles 2 and 16 are contrary to the object and purpose of the Convention.

142. The Committee urges the State party to expedite legislative reform, especially of the Family Code, to allow it to proceed to withdraw its reservations to the Convention within a concrete time frame.

143. The Committee is concerned about the lack of progress in revising discriminatory legislation. In particular, it expresses concern that the revision of the Code of Algerian Nationality established by Order 70-86 of 15 December 1970 and of the 1984 Family Code has not been completed, thus allowing for the persistence of discriminatory provisions that deny women equal rights with men concerning the transmission of nationality, as well as on issues related to marriage and family life, including divorce and child custody. It also expresses concern that the proposed amendments to the Family Code do not include the abolition of polygamy and of women's legal guardianship.

144. The Committee urges the State party to place high priority on implementing legislative reforms and to step up the process of revising the Code of Algerian Nationality and the Family Code so as to promptly bring them into line with articles 9 and 16 of the Convention. To this end, the Committee calls upon the State party to establish a clear time frame for the review of those laws by the Council of Ministers and for their submission to the National People's Assembly and the Council of the Nation and to increase its efforts to sensitize public opinion regarding the importance of legal reform.

145. The Committee is concerned that, although women's access to justice is provided for by law, their ability in practice to exercise this right and to bring cases of discrimination before the courts is limited.

146. The Committee requests the State party to remove impediments women may face in gaining access to justice, including through sensitization about available legal remedies against discrimination, and to monitor the results of such efforts.

- Croatia, CEDAW, A/60/38 part I (2005) 30 at paras. 198 and 199.

198. ...The Committee is...concerned about the high costs of legal representation in courts, which may be an obstacle to women victims of violence seeking redress through the justice system.

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199. ...The Committee calls upon the State party to ensure that violence against women is prosecuted and punished, and to facilitate women's access to legal aid...

- Gabon, CEDAW, A/60/38 part I (2005) 37 at paras. 229-232.

229. While noting that women's access to justice and redress for alleged violations of their rights is provided for by law, the Committee is concerned that their ability to exercise this right in practice and to bring cases of discrimination before the courts may be inhibited by economic or cultural obstacles.

230. The Committee urges the State party to remove impediments and ensure access to affordable, effective and expeditious means of redress for women, including through awareness-raising about the availability of remedies against discrimination, and the provision of legal aid. The Committee also encourages the State party to monitor the effectiveness of such efforts.

231. The Committee is concerned about the persistence of discriminatory legal provisions, particularly pertaining to marriage and family relations, in the Civil and Penal Codes, including in respect of minimum age of marriage, separation and divorce, custody of children, equal-inheritance rights of widows and equal choice of residence and profession. The Committee is also concerned that the Civil Code recognizes the option of polygamy. Although an inventory of discriminatory legislation was compiled in 1997 and a number of studies have been undertaken on the discriminatory impact of legislation, the Committee is concerned about the lack of progress in amending discriminatory laws, in particular the Civil and Penal Codes.

232. The Committee urges the State party to accelerate the process of legal reform to eliminate discriminatory provisions, especially in the Civil and Penal Codes to ensure their full compliance with articles 2 and 16 of the Convention and the Committee's general recommendation 21 on equality in marriage and family relations. The Committee urges the State party to establish a concrete programme and timetable for such a reform process and to activate fully the inter-ministerial committee established for the purpose of reviewing the discriminatory aspects of the various codes...

- Paraguay, CEDAW, A/60/38 part I (2005) 44 at paras. 289 and 290.

289. The Committee remains concerned about the situation of rural women, who continue to have limited access to land ownership and to credit facilities and extension services, thus perpetuating their poor social and economic conditions, notwithstanding the adoption of the Agrarian Act...

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290. The Committee urges the State party to address the rights, needs and concerns of rural women through the effective implementation of the Agrarian Act without delay and to implement vocational training programmes for rural women to ensure equal opportunities and access to the labour market...

- Turkey, CEDAW, A/60/38 part I (2005) 58 at paras. 363, 364, 367 and 368.

363. The Committee is concerned that some provisions of the Penal and Civil Codes continue to discriminate against women and girls...The Committee is further concerned that the amendment to the Civil Code regarding joint ownership of acquired property as the default legal property arrangement does not apply retroactively.

364. The Committee calls upon the State party to give priority to amending remaining discriminatory legal provisions without delay so as to bring its legislation into line with article 2 of the Convention...It also recommends that the State party consider the impact on women of the lack of retroactive applicability of the amendment to the Civil Code regarding joint ownership of acquired property, with a view to remedying the law's disadvantageous consequences for women who were married prior to its entry into force.

...

367. The Committee is strongly concerned about the pervasiveness of patriarchal attitudes and deep-rooted traditional and cultural stereotypes regarding the roles and responsibilities of women and men in society, which continue to cast women in a position of inferiority...It is also concerned about the persistence of certain traditional and cultural practices that are discriminatory to women, such as early marriage, forced marriage and polygamy, notwithstanding the relevant provisions in the Civil Code.

368. The Committee calls upon the State party to accelerate its efforts to eliminate stereotypical attitudes about the roles and responsibilities of women and men, in conformity with articles 2 (f) and 5 (a) of the Convention, including through awareness-raising and educational campaigns directed at both women and men, to foster a better understanding of and support for equality between women and men at all levels of society. The Committee calls on the State party to monitor carefully the impact of such measures. It recommends that the media be further encouraged to project a positive image of women and of the equal status and responsibilities of women and men in the private and public spheres. The Committee also calls upon the State party to introduce without delay additional measures, in collaboration with civil society organizations, women's groups and community leaders, as well as teachers and the media, to eliminate traditional and cultural practices that discriminate against women in marriage and family relations, taking into account the Committee's general recommendation 21, on equality in marriage and family relations.

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

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

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

- Gambia, CEDAW, A/60/38 part II (2005) 122 at paras. 189, 190, 211 and 212.

189. The Committee is concerned that the Constitution explicitly exempts from prohibition of discrimination on grounds of gender the areas governing personal status, particularly with regard to adoption, marriage, divorce, burial and devolution of property on death, in contravention of articles 2 and 16 of the Convention, resulting in continuing discrimination against women. The Committee also expresses concern about the widespread practice of polygamy.

190. The Committee calls upon the State party to amend section 33 (5) of its 1997 Constitution, which explicitly exempts from prohibition of discrimination on grounds of gender the areas governing personal status, particularly with regard to adoption, marriage, divorce, burial and devolution of property on death. It urges the State party to accelerate its efforts towards the revision of discriminatory legislation so as to bring it into compliance with articles 2 and 16 of the Convention. The Committee also calls upon the State party to implement measures aimed at eliminating polygamy, as called for in the Committee's general recommendation 21 on equality in marriage and family relations.

...
211. The Committee is concerned about the situation of rural women, many of whom live in extreme poverty and lack access to health care, education, vocational training, credit facilities and income-generation opportunities. It is particularly concerned that the State has not yet designed a gender-sensitive rural development strategy.

212. The Committee urges the State party to design and implement a gender-sensitive rural development strategy. It calls upon the State party to ensure that rural women can participate fully in the formulation and implementation of policies and programmes in rural areas. It urges the State party to ensure that rural women and girls have full access to health-

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care services, education and vocational training, as well as credit facilities and income-generating opportunities.

- Guyana, CEDAW, A/60/38 part II (2005) 136 at paras. 289-292.

289. The Committee is concerned about the persistence of discriminatory legal provisions, particularly the Criminal Law (Offences) Act provision which makes it a criminal act for a girl of 16 years to have sexual intercourse with a relative such as a grandfather or brother and making her liable to imprisonment for up to seven years; and the Married Persons Property Act that prevents non-working spouses from acquiring the same rights in matters of division of property and disproportionately affects women.

290. The Committee urges the State party to undertake comprehensive legal reform in accordance with its obligations under the Convention and, in particular, to eliminate discriminatory provisions without delay in the Criminal Law (Offences) Act and civil law so as to ensure full compliance with articles 2 and 16 of the Convention. The Committee requests the State party to provide the necessary support to the Women and Gender Equality Commission so that it may place high priority on reviewing existing and future legislation for compliance with the provisions of the Convention and submitting recommendations for compliance with international instruments to which the State is a party.

291. While welcoming laws to eliminate discrimination against women, including the Equal Rights Act of 1990 and the Prevention of Discrimination Act of 1997, the Committee is concerned about the lack of systematic enforcement of existing legislation, of mechanisms to monitor and ensure compliance, and of effective remedies in case of breach. The Committee is also concerned about the insufficient availability of legal aid to women, in particular women living in rural areas and hinterlands; their lack of awareness about legislation aimed at eliminating discrimination against women; and continuing reluctance, or inability of women to seek legal redress in cases of discrimination.

292. The Committee urges the State party to strengthen its efforts to protect women against any act of discrimination, including strengthening existing complaints mechanisms such as the Ombudsman and Chief Labour Officer, and putting in place sanctions for acts of discrimination against women. The Committee further urges the State party to ensure full compliance by public authorities and institutions with legislation aimed at prevention of discrimination against women, increase the availability of legal aid to women in all parts of the country and sensitize the judiciary and law enforcement personnel to gender equality issues. The Committee urges the State party to take special measures to enhance women's awareness of their rights and legal literacy so that they can better avail themselves of available remedies and mechanisms of redress against violations of their rights under the Convention.

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- Burkina Faso, CEDAW, A/60/38 part II (2005) 144 at paras. 339-342, 347 and 348.

339. While welcoming the Individual and Family Code, which provides for women's equality with men in many respects in the areas of marriage, divorce and death and inheritance, the Committee is concerned about the persistence of several discriminatory provisions in the Code, particularly in relation to the minimum age of marriage, which is 17 years for girls and 20 years for boys, and the legality of polygamy under the Code.

340. The Committee urges the State party to accelerate the process of legal reform to raise the minimum age of marriage of girls and to prohibit polygamy in order to ensure compliance with articles 2 and 16 of the Convention and the Committee's general recommendation 21 on equality in marriage and family relations.

341. While welcoming legislation prohibiting female genital mutilation, forced and early marriage, levirate and sororate, dowry and practices that prevent women from owning land and inheriting from their husbands, the Committee remains concerned about the continuing strong prevalence of patriarchal attitudes and deep-rooted stereotypes and of customs and traditions that discriminate against women, particularly women in rural areas, and constitute violations of their human rights. The Committee is concerned that these practices persist in contravention of the provisions of the Convention, as well as national legislation. The Committee is also concerned that women are not informed of remedies under relevant legislation.

342. The Committee calls upon the State party to take all necessary measures to ensure full compliance with the provisions of the Convention, the Individual and Family Code, the Penal Code and other laws in regard to harmful traditional or customary practices that violate women's rights. The Committee recommends that these efforts be undertaken in combination with educational programmes designed to raise awareness and challenge discriminatory customs and traditions and stereotypic attitudes regarding the roles and responsibilities of women in the family and society, as required under articles 2 (f) and 5 (a) of the Convention. The Committee encourages the State party to undertake these efforts in collaboration with civil society and women's and human rights organizations, and target women and men in all segments of society, including public officials at all levels of government and community and traditional leaders, as well as the general public. It also urges the State party to improve women's access to remedies, including through awareness-raising efforts and measures to enhance women's legal literacy.

...

347. The Committee is concerned about the situation of rural women, particularly in view of their extreme poverty and lack of access to adequate nutrition and sanitation, health care, education and income-generating opportunities. This situation leads to multiple forms of discrimination against rural women...

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348. The Committee urges the State party to pay special attention to the situation of rural women so as to enhance compliance with article 14 of the Convention. In particular, the Committee calls upon the State party to ensure that rural women have full access to education, health services and credit facilities, and can fully participate in decision-making processes. The Committee also urges the State party to implement provisions of the Agrarian and Land Reform that give women equal access to arable land and housing and provisions of the Individual and Family Code so as to eliminate all forms of discrimination against women with respect to ownership and inheritance of land. It also urges the State party to place emphasis on women's human rights in all development cooperation programmes with international organizations and bilateral donors so as to address the socio-economic causes of discrimination against women and sociocultural causes of poverty of women, especially those affecting women in rural areas, through all available sources of support. The Committee urges the State party to put into operation the principle of gender equality as a key factor in eradicating poverty as outlined in the strategic and regional frameworks for poverty reduction...

CAT

- Israel, CAT, A/57/44 (2001) 27 at paras. 52 and 53.

52. The Committee expresses concern about the following matters:

...

(i) Israeli policies on closure may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (article 16 of the Convention);

(j) Israeli policies on house demolitions may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment (article 16 of the Convention);

...

53. The Committee makes the following recommendations:

...

(g) The State party should desist from the policies of closure and house demolition where they offend article 16 of the Convention;

...

- Spain, CAT, A/58/44 (2002) 29 at paras. 58 and 69.

58. The Committee...notes with satisfaction:

...

(d) The new Instruction from the Secretary of State for Immigration on the treatment of foreign stowaways, replacing the Instruction of 17 November 1998 on the same subject.

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This establishes a series of safeguards concerning the right to official legal representation in administrative or judicial proceedings which may lead to the acceptance of possible asylum applications, refusal of entry or expulsion from Spanish territory;

...

69. The Committee encourages the State party to take the necessary measures to ensure that the process of expulsion from the country, in particular in the case of minors, is in keeping with the Convention.

- Turkey, CAT, A/58/44 (2003) 46 at paras. 121-123.

121. The Committee expresses concern about:

...

(g) The State party's failure to comply fully with judgements of the European Court of Human Rights ordering the payment of just compensation.

122. The Committee is also concerned about:

...

(b) Allegations according to which the expulsion of illegal aliens to their country of origin or to neighbouring countries is often accompanied by ill-treatment, in violation of the safeguards contained in article 3 of the Convention;

(c) The continuing reports of harassment and persecution of human rights defenders and non-governmental organizations.

123. The Committee recommends that the State party:

...

(g) Review the current legislation and practice in order to ensure that the expulsion of irregular aliens is carried out with full respect for the legal guarantees required by international human rights standards, including the Convention;

(h) Ensure that fair and adequate compensation, including financial indemnification, rehabilitation, and medical and psychological treatment are provided to the victims of torture and ill-treatment;

(i) Ensure that human rights defenders and non-governmental organizations are respected, together with their premises and archives;

...

- Belgium, CAT, A/58/44 (2003) 49 at paras. 129 and 131.

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129. The Committee is concerned about:

...

(d) The fact that foreigners who have been resident in Belgium for a long time but who have disturbed public order or endangered national security may be expelled from the territory, even though most of their ties and attachments are in Belgium;

(e) The non-suspensive nature of appeals filed with the Council of State by persons in respect of whom an expulsion order has been issued. The Committee is also concerned about the administration's delay in implementing ministerial orders issued in 2002 and giving suspensive effect to emergency remedies applied for by rejected asylum-seekers;

(f) The possibility of extending the detention of foreigners for as long as they do not cooperate in their repatriation, the possibility of placing unaccompanied minors in detention for lengthy periods, and information that asylum-seekers who have been formally released have been transferred to the transit area of the national airport, without assistance and without being allowed to leave;

...

131. The Committee recommends that the State party:

...

(c) Ensure that the guidelines on the use of force during public demonstrations and expulsions of foreigners are fully in keeping with the requirements of the Convention, guarantee their full implementation and conduct immediate inquiries into any allegations of the excessive use of force by law enforcement officials;

(d) Give suspensive effect not only to emergency remedies applied for but also to appeals filed by any foreigner against whom an expulsion order is issued and who claims that he or she faces the risk of being subjected to torture in the country to which he or she is to be returned;

(e) Set a time limit for the detention of foreigners against whom an expulsion order is issued, draft specific legislation on unaccompanied minors that takes account of the best interests of the child, and monitor asylum-seekers who have been released;

...

- Republic of Moldova, CAT, A/58/44 (2003) 53 at paras. 138 and 139.

138. The Committee expresses concern about:

...

(j) Reports alleging that immigrants are apparently being detained in poor conditions in temporary holding facilities;

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(k) Allegations regarding the expulsion of aliens that seem to occur without taking into consideration the safeguards contained in article 3 of the Convention;

...

139. The Committee recommends that the State party:

...

(h) Take measures to ensure that the requirement of article 3 of the Convention is taken into consideration when deciding on the expulsion, return or extradition of aliens;

(i) Transfer the responsibility of detained persons in temporary holding facilities from the Ministry of the Interior to the Ministry of Justice;

...

- Latvia, CAT, A/59/44 (2003) 48 at paras. 100 and 101.

100. The Committee expresses concern about the following:

...

(e) The fact that the new Asylum Law stipulates that neither "alternative status" for asylum-seekers shall be granted to a person who has arrived in Latvia from a country in which he/she could have asked for and received protection. Furthermore, the Committee is concerned at the long periods that asylum-seekers may spend in detention after the rejection of their asylum request;

...

(i) The number of persons who lost their legal status as citizens or "non-citizens" and became "illegal" after having temporarily left the country;

...

101. The Committee recommends that the State party:

...

(e) Introduce legally enforceable time limits for the detention of rejected asylum-seekers who are under expulsion orders...

...

(j) Continue to facilitate the integration and naturalization of "non-citizens";

...

- Greece, CAT, A/60/44 (2004) 20 at paras. 47 and 48.

47. The Committee notes that many of the concerns it expressed during the consideration of the third periodic report (A/56/44, para. 87) have not been adequately addressed, and will be reiterated in the present concluding observations. Consequently, the Committee expresses its concern at:

...

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(b) Procedures related to the expulsion of foreigners which in some instances may be in breach of the Convention. It is also concerned at the low percentage (0.06 per cent) of persons who were granted refugee status in 2003. The Committee acknowledges that owing to its geographic location Greece has become an important passageway into Europe for many immigrants and asylum-seekers, the number of which has increased significantly in the past decade. The importance of providing an adequate response is therefore all the more pressing;

(c) Training provided to public officials which may be inadequate to provide an appropriate response to the numerous challenges with which they are faced, including undocumented migrants and asylum-seekers and victims of trafficking, many of whom are women and children;

(d) The slow progress in adopting a code of ethics and other measures governing the conduct of police interrogations to supplement the provisions of the Criminal Procedure Code, with a view to preventing cases of torture and ill-treatment, in accordance with article 11 of the Convention;

(e) The lack of an effective independent system to investigate complaints and reports that allegations of torture and ill-treatment are not investigated promptly and impartially;

(f) The alleged reluctance of prosecutors to institute criminal proceedings under article 137A of the Criminal Code. Furthermore, the Committee is concerned at the deficiencies in according protection from ill-treatment or intimidation to victims to which they may be exposed as a consequence of filing a complaint or giving evidence;

(g) The insufficient information available relating to redress and fair and adequate compensation, including rehabilitation available to victims of torture or their dependants, in accordance with article 14 of the Convention;

(h) Continuing allegations of excessive use of force and firearms, including cases of killings and reports of sexual abuse, by the police and, in particular, border guards. Many of the victims are reportedly Albanian citizens or members of other socially disadvantaged groups, and the Committee regrets the fact that disaggregated statistical data in this respect are not available from the State party;

...

(j) Ill-treatment of Roma by public officials in situations of forced eviction or relocation. The fact that these may be carried out pursuant to judicial orders cannot serve as a justification for ill-treatment, numerous allegations of which have been reported by national and international bodies alike;

...

48. The Committee recommends that the State party:

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...

(k) Ensure that all actions of public officials, in particular where the actions affect the Roma (such as evictions and relocations) or other marginalized groups, are conducted in a non-discriminatory fashion and that all officials are reminded that racist or discriminatory attitudes will not be permitted or tolerated;

...

CRC

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 293 and 294.

293. Noting the significant achievements in the improvement in the status of women in Qatar, the Committee is nevertheless concerned that discrimination, contrary to article 2 of the Convention, persists in the State party. In particular, the Committee is concerned about discrimination against females and children born out of wedlock under existing personal status law (e.g. in inheritance, custody and guardianship).

294. In accordance with article 2 of the Convention, the Committee recommends that the State party:

(a) Take effective measures, including enacting or rescinding legislation where necessary, to prevent and eliminate discrimination on grounds of sex and birth in all fields of civil, economic, political, social and cultural life;

(b) Undertake all possible measures to reconcile fundamental human rights with Islamic texts;

(c) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family; and

(d) Train members of the legal profession, especially the judiciary, to be gender-sensitive. Religious leaders should be mobilized to support such efforts.

See also:

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 476 and 477.
- United Arab Emirates, CRC, CRC/C/118 (2002) 90 at paras. 387 and 388.

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- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 211 and 212.

211. While domestic legislation includes provisions for maintenance allowance, the Committee is concerned at the lack of implementation of these provisions, due mainly to widespread ignorance of the law and at the lack of legal provisions regarding maintenance for children born out of wedlock and children from single parent families.

212. The Committee recommends that the State Party:

(a) Make widely known the provisions of domestic legislation concerning maintenance allowance, especially to mothers who are illiterate, and support them if necessary in understanding legal actions;

(b) Ensure that professional groups dealing with this issue are adequately trained and courts are stricter regarding the recovery of allowances from solvent parents who refuse to pay; and

(c) Take necessary measures to ensure as much as possible the maintenance of children born out of wedlock and children of single-parent families by their parents, particularly their fathers.

See also:

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 361 and 362.
- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 459 and 460.

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 274 and 275.

274. While noting that the State party's Constitution prohibits discrimination, the Committee is concerned that:

(a) Girls are particularly vulnerable to gender discrimination and that some aspects of customary law, particularly in the context of property rights, reinforce such discrimination;

(b) Aspects of domestic legislation, including the Law on the Family and Inheritance, are discriminatory against women and, in this context, may negatively affect respect for the rights of children, especially girls;

...

275. The Committee recommends that the State party:

(a) Continue its efforts to ensure the compatibility of all domestic legislation and of customary law practices with article 2 of the Convention, giving particular attention to gender discrimination;

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(b) Make every effort to implement the 1999 Land Law in such a way as to address some aspects of discrimination against women;

...

- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 416 and 417.

416. While domestic legislation includes provisions for maintenance allowance (Affiliation Act (cap. 26:02); Maintenance Orders Enforcement Act and the Divorce Act (cap. 25:04)), the Committee is concerned at the lack of implementation of these provisions mainly because of widespread ignorance of the law, limited enforcement of maintenance orders and the small amounts of the orders which cannot cover the basic needs of the child.

417. The Committee recommends that the State party:

(a) Make widely known the provisions of domestic legislation concerning maintenance allowance, especially among mothers who are illiterate, and to support them if necessary in understanding legal actions;

(b) Ensure that professional groups dealing with this issue are adequately trained and courts more strictly implement the provisions regarding the recovery of allowances, particularly in case of solvent parents who refuse to pay; and

(c) Take the necessary measures to ensure, to the extent possible, that the maintenance ordered covers the basic needs of the child.

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 456 and 457.

456. The Committee is concerned that in the case of Muslims the Shariah Court system - which applies Shariah personal law (marriage, divorce, custody and guardianship, inheritance, maintenance) and criminal law - lacks many basic and minimum international safeguards and procedures, including those contained in the Convention, without which the right to a fair trial or adequate access to the courts can be guaranteed in practice. In particular, the Committee is concerned that:

(a) Shariah remains uncodified and is applied in its classical sense without reference to State legislation; and

(b) Because it is uncodified the system may be subject to arbitrariness, inconsistencies, and lack of uniformity between judgements between different cadis, or judges, between Shi'a and Sunni departments and disparities with decisions of the secular courts.

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457. The Committee recommends that the State party:

(a) Conduct a comprehensive review of its domestic laws, administrative regulations and procedural rules, including Shariah, to ensure that they conform to international human rights standards, including the Convention;

(b) Ensure that laws are sufficiently clear and precise, are published, and are accessible to the public.

- Niger, CRC, CRC/C/118 (2002) 37 at paras. 163 and 164.

163. The Committee is concerned at the practice of repudiation of women, which can lead to the separation of the child from his/her mother, and at the custom applicable in divorce cases which holds that children are entrusted to their mothers before they are 7 years old and to their fathers when older, without the views of the child and his/her best interests being taken into account. In addition, the Committee is concerned that the recovery of maintenance is not ensured.

164. The Committee recommends that the State party take all necessary measures to stop these practices and reinforce its efforts to sensitize the population on the obvious negative impact and the contradiction of these practices with the best interests of the child and other relevant provisions of the Convention. In addition, the Committee recommends that the State party take all necessary measures to ensure the recovery of maintenance.

- Saint Vincent and the Grenadines, CRC, CRC/C/118 (2002) 101 at paras. 441 and 442.

441. Noting the assistance provided to families, *inter alia*, by the Public Assistance Board under the Ministry of Social Development and through the Ministries of Education and Health, the Committee remains concerned that:

...

(d) Mothers are only able to claim child maintenance for a child aged over 5 if the claim process was initiated before the child reached the age of 5, and there are disparities between the child maintenance awards made to the children of unmarried mothers (domestic court) and married mothers (magistrates court).

442. The Committee recommends that the State party:

...

(c) Strengthen its efforts to secure child maintenance payments in adequate amounts, ensuring also that there are no disparities between those accorded to the children of married and unmarried mothers;

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...

- Spain, CRC, CRC/C/118 (2002) 117 at paras. 512 and 513.

512. The Committee is deeply alarmed about the conditions of unaccompanied foreign children, mostly Moroccans, especially in the autonomous cities of Ceuta and Melilla. In particular, it expresses its concern at reports of:

...

(b) Failure to provide for these children the temporary legal residency status to which they are entitled to under the law because the Department of Social Welfare, as their legal guardian, did not apply for it;

...

513. The Committee recommends that the State party urgently take the necessary measures in order to:

(a) Ensure the implementation of Organizational Act 4/2000 and other laws by providing to unaccompanied foreign children access to residential care, education, emergency services and other health care, and temporary residency documents;

...

(f) Provide unaccompanied foreign children with information about their rights under Spanish and international law, including the right to apply for asylum;

...

- The Netherlands (Antilles), CRC, CRC/C/118 (2002) 129 at paras. 536, 537, 563 and 564.

536. The Committee welcomes efforts by the State party to harmonize legislation with the Convention, such as the introduction of a new Civil Code in January 2001. Yet, the Committee is concerned that the new Civil Code and the Family Law are not sufficiently known within the Netherlands Antilles.

537. The Committee recommends that the State party:

(a) Continue in its effort to ensure that the new provisions of the Civil Code and Family Law are published and accessible to the public, and are sufficiently known and understood by all professional groups working for and with children;

(b) Review the legislation in order to achieve full compliance with the Convention and its rights-based approach.

...

563. The Committee notes that while the Civil Code obliges parents to meet the costs of

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maintaining and educating their child, in practice it is difficult to recover this maintenance and often it is the mother who carries the full responsibility for the upbringing of the child.

564. The Committee recommends that the State party implement a more proactive and effective policy for collecting maintenance from solvent parents who refuse to pay.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 121, 122, 141 and 142.

121. ...[T]he Committee is concerned that the obligations of article 12 have not been consistently incorporated in legislation, for example in private law procedures concerning divorce, in adoption, in education and in protection throughout the State party. In addition, the Committee is concerned that the right of the child to independent representation in legal proceedings, as laid down in the Children Act 1989, is not systematically exercised...

122. The Committee recommends...that the State party take further steps to consistently reflect the obligations of both paragraphs of article 12 in legislation, and that legislation governing court procedures and administrative proceedings (including divorce and separation proceedings) ensure that a child capable of forming his/her own views has the right to express those views and that they are given due weight....

...

141. The Committee welcomes the establishment in 1994 of the Children's Panel of Advisers and is aware of the increasing number of children claiming asylum, either with their families or on their own. The Committee is concerned that detention of these children is incompatible with the principles and provisions of the Convention. The Committee is further concerned that the dispersal system may impede better integration and lead to an escalation in racially related incidents; that placement in temporary accommodation of children seeking asylum may infringe their basic rights such as access to health or education; that processing applications may take several years; that the Children's Panel of Advisers is not always adequately funded; and that the ongoing reform of the asylum and immigration system fails to address the particular needs and rights of asylum-seeking children.

142. In accordance with the principles and provisions of the Convention, especially articles 2, 3, 22 and 37, and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:

(a) Refrain, as a matter of policy, from detaining unaccompanied minors and ensure the right to speedily challenge the legality of detention, in compliance with article 37 of the Convention. In any case, detention must always be a measure of last resort and for the shortest appropriate period of time;

...

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(c) Consider the appointment of guardians for unaccompanied asylum-seeking and refugee children;

(d) Take all necessary measures to prevent children who have settled in a particular area being forced to leave when they reach the age of 18 years;

(e) Undertake efforts to expedite the procedure for dealing with asylum applications and to avoid placing children in temporary accommodation which are inappropriate, accommodating them rather as “children in need” under the childcare legislation;

(f) Carry out a review of the availability and effectiveness of legal representation and other forms of independent advocacy for unaccompanied minors and other children in the immigration and asylum systems;

(g) Address thoroughly the particular situation of children in the ongoing reform of the immigration and asylum systems to bring them into line with the principles and provisions of the Convention.

- Seychelles, CRC, CRC/C/121 (2002) 41 at paras. 185, 186, 189, 190, 193 and 194.

185. Noting the recognition of the best interests principle in the Children’s Act, the Committee remains concerned that the principle is not fully recognized and implemented in all legislation, policies and programmes for children.

186. In light of article 3, the Committee recommends that the State party ensure that the best interests principle is reflected in all relevant legislation, policies and programmes for children, in particular in the proceedings and decisions of the Family Tribunal.

...

189. The Committee is concerned that the right of children born out of wedlock to know their biological fathers can be limited, *inter alia*, owing to the right of the mother not to reveal the name of the father, and that children of divorced or separated parents may not be able to preserve their identity.

190. In light of article 8, the Committee recommends that the State party review its legislation in order to ensure that all children born out of wedlock have, as far as possible, the legal right to know and maintain contact with both their biological parents, and that all children of divorced or separated parents have the legal right to maintain their identity.

...

193. While acknowledging the State party’s efforts to destigmatize and streamline judicial proceedings with respect to family issues through the creation of the Family Tribunal, the Committee is concerned that the functioning of the Tribunal is not always in conformity with

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the principles and provisions of the Convention.

194. The Committee recommends that the State party:

(a) Ensure that the general principles of the Convention, in particular the best interests principle and respect for the views of the child, are integrated into all proceedings and decisions of the Family Tribunal;

(b) Improve the professionalism and qualifications of all staff and members of the Family Tribunal through further training which includes the principles and provisions of the Convention;

(c) Ease the burden on child witnesses and victims by minimizing delays and postponements, ensuring their right to privacy and providing training for staff on how to work with these victims and witnesses in a child-sensitive manner.

- Sudan, CRC, CRC/C/121 (2002) 53 at paras. 276 and 277.

276. The Committee is concerned...at reports of forced evictions for the purposes of oil exploration.

277. The Committee recommends that the State party:

...

(e) Ensure that oil exploration activities do not lead to the forced displacement of families, including children, and that the rights of all children in regions where these activities are undertaken are respected.

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 336 and 337.

336. The Committee is concerned that State assistance to single parents is inadequate and that the system for recovering child maintenance is inefficient and allows for delays in payments, sometimes lasting several years.

337. The Committee recommends that the State party establish a mechanism that will implement and monitor more proactive, timely and effective policy for collecting maintenance from the parent responsible for paying it.

- Poland, CRC, CRC/C/121 (2002) 120 at paras. 523 and 524.

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523. The Committee notes the State party's efforts to require administrative and judicial proceedings to take into account the views of the child, but is concerned that in practice this principle is not always implemented, particularly in proceedings involving unaccompanied children applying for refugee status, juvenile offenders and children placed in institutions, as well as in custody hearings.

524. The Committee recommends that the State party:

(a) Take effective measures, including legislation, to promote and facilitate respect for the views of children, by courts and all administrative bodies and the participation of children in all matters affecting them, in accordance with article 12 of the Convention;

(b) Provide educational information to, among others, parents, teachers, government administrative officials, the judiciary, the Roman Catholic Church and other religious groups, and society at large, on children's right to have their views taken into account and to participate in matters affecting them.

- Israel, CRC, CRC/C/121 (2002) 131 at paras. 553, 560, 561, 600 and 601.

553. The Committee welcomes:

...

(b) The enactment of progressive legislation, including the 2002 law on information regarding the influence of legislation on children's rights, and laws on minor victims' rights and legal assistance for children;

...

(d) The active involvement of civil society in the promotion and protection of human rights in the State party, including through public-interest litigation, and the many court rulings based upon the articles of the Convention;

...

560. The Committee is concerned that religious laws, particularly in the area of personal status, may not be in compliance with the principles and provisions of the Convention.

561. The Committee encourages the State party to take all possible measures to reconcile the interpretation of religious laws with fundamental human rights.

...

600. The Committee is deeply concerned at the large-scale demolition of houses and infrastructure in the occupied Palestinian territories, which constitutes a serious violation of the right to an adequate standard of living for children in those territories.

601. The Committee recommends, with reference to international humanitarian law, notably the Geneva Convention relative to the Protection of Civilian Persons in Time of War, that

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the State party fully comply with the rules of distinction (between civilians and combatants) and proportionality (of attacks that cause excessive harm to civilians) and thus refrain from the demolition of civilian infrastructure, including homes, water supplies and other utilities. It further recommends that the State party provide the victims of such demolitions with support for the rebuilding of their houses and with adequate compensation.

- Estonia, CRC, CRC/C/124 (2003) 9 at paras. 45 and 46.

45. The Committee is concerned that the current discriminatory attitudes towards linguistic minority communities (e.g. the Russian-speaking community), non-citizens, especially those without legal status, and other disadvantaged groups may restrict, directly or indirectly, the rights guaranteed under the Convention to children belonging to those groups. In particular, the Committee is concerned:

...

(b) That there is no legislation at present prohibiting discrimination in housing, and access to education and public services;

...

46. The Committee recommends that the State party:

(a) Take effective measures, including enacting or rescinding legislation where necessary, to ensure that all children enjoy all the rights set out in the Convention without discrimination, in accordance with article 2;

(b) Study the effectiveness of the measures taken to counter all forms of discrimination;

...

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 124 and 125.

124. The Committee is concerned at the high number of divorced and single parents, primarily mothers, who do not receive the child maintenance payments to which they are legally entitled.

125. In the light of article 27 and the principle of the best interests of the child (art. 3), the Committee recommends that the State party take all effective measures to enforce child maintenance obligations based on a court order or agreements between parties in a manner that does not stigmatize the child or his or her custodial parent. For instance, the State party might consider establishing a national fund to ensure payment of overdue child maintenance obligations to the custodial parent while enforcement measures are enacted, or introducing a system in which child support payments are automatically deducted from the salaries of those employees with child maintenance obligations.

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- Czech Republic, CRC, CRC/C/124 (2003) 78 at paras. 356 and 357.

356. The Committee welcomes the amendment to the Civil Procedure Code, including the information by the State party referring to the regulation of the respect for the child's views in the Act on Social and Legal Protection of Children and by amendment to the Act on the Family. The Committee is concerned that children's participation in other areas, such as school and institutions, is not regulated by legislation or sufficiently observed in practice. Furthermore, the Committee is concerned that awareness of these provisions is quite low, thus contributing to weak observance.

357. The Committee recommends that the State party introduce a comprehensive legal provision establishing the right of the child to participate that would be applicable to courts, administrative bodies, institutions, schools, childcare institutions and families in matters affecting children, and guarantee the right to appeal the decisions, in accordance with article 12 of the Convention. Awareness-raising and educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children as objects rather than subjects of rights.

- Zambia, CRC, CRC/C/132 (2003) 32 at paras. 191 and 192.

191. While domestic legislation includes provisions for maintenance allowance (Affiliation and Maintenance of Children Act, Penal Code and Juveniles Act), the Committee is concerned at the lack of implementation of these provisions, mainly because of widespread ignorance of the law and limited enforcement of maintenance orders, notably when the parent concerned lives abroad.

192. The Committee recommends that the State party:

(a) Make widely known the provisions of domestic legislation concerning maintenance allowance, especially among mothers who are illiterate, and support them, if necessary, in understanding legal actions;

(b) Ensure that professional groups dealing with this issue are adequately trained and that courts implement more strictly the provisions regarding the recovery of allowances, particularly in case of solvent parents who refuse to pay;

(c) Consider ratifying the Hague Convention on the Law Applicable to Maintenance Obligations of 1973.

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- Solomon Islands, CRC, CRC/C/132 (2003) 58 at paras. 315 and 316.

315. The Committee is concerned that:

...

(b) Single mothers can only file a request for maintenance in the first three years after the birth of their children;

(c) The rights and responsibilities of unmarried fathers are very limited.

316. The Committee recommends that the State party:

(a) Take steps to ensure that parents and families understand and fulfil their obligations towards children and give consideration to means of providing families with adequate support, including through community structures;

(b) Amend or adopt legislation that does not discriminate against either parent or parents who are not married and provide equal protection to children born out of wedlock, including by abolishing time limits for filing maintenance requests and ensuring the inheritance rights of those children.

- Morocco, CRC, CRC/C/132 (2003) 100 at paras. 494 and 495.

494. The Committee is deeply concerned at the existence of difficulties in the implementation of decisions of the courts regarding custody and visitation rights for Moroccan children one of whose parents live outside Morocco and for foreign children one of whose parents is Moroccan.

495. The Committee recommends that the State party undertake all necessary efforts to strengthen dialogue and consultation with relevant countries, as mentioned in the State party's report ([CRC/C/93/Add.3] para. 258), notably those with which the State party has signed an agreement regarding custody or visitation rights, and ratify the Hague Convention on the Civil Aspects of International Child Abduction of 1980.

- Syrian Arab Republic, CRC, CRC/C/132 (2003) 116 at paras. 535, 536, 545 and 546.

535. The Committee notes that the State party has undertaken a commitment to review national legislation *vis-à-vis* the Convention. It further notes various recent and proposed legislative measures with respect to child rights (e.g. amendments to the Personal Status Code and higher penalties sought for infringements of the Compulsory Education Act), but the Committee is concerned that they do not sufficiently reflect a comprehensive human

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rights-based approach to the implementation of the Convention. Moreover, it is concerned that in the area of personal status matters, the application of different laws (e.g. 1953 Law of Personal Status) governing different religious communities (i.e. Muslims, Druze, Christians and Jews), and consequently recourse to the different court systems (i.e. Shariah, *madhabi*, and *ruhj* courts), may lead to discrimination in the enjoyment of children's rights.

536. The Committee recommends that the State party:

(a) Expedite the comprehensive review of its law, administrative regulations and legal procedural rules to ensure that they conform to international human rights standards, including the Convention;

(b) Take all possible measures to reconcile the interpretation of religious laws with fundamental human rights;

(c) Ensure that laws are sufficiently clear and precise, are published, and are accessible to the public.

...

545. The Committee notes the information on good government cooperation with national associations in the development and welfare sectors, as well as with international organizations. However, it is concerned that little effort has been made to actively involve civil society, particularly in the area of civil rights and freedoms, in the implementation of the Convention.

546. The Committee recommends that the State party:

(a) Adopt a systematic approach to involving civil society, including children's associations, throughout all stages in the implementation of the Convention, including with respect to civil rights and freedoms;

(b) Ensure that legislation regulating NGOs (e.g. the Private Associations and Institutions Act No. 93 of 1958) conforms to article 15 of the Convention and other international standards on freedom of association, as a step in facilitating and strengthening their participation.

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 458 and 459.

458. The Committee is concerned about the various legal minimum ages, which are inconsistent, discriminatory and/or too low. The Committee is also deeply concerned at the fact that the Majority Act 1875, setting the age of majority at 18 years, has no effect "on the capacity of any person in relation to marriage, dowry, divorce and adoption or on the religion

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and religious customs of any citizen” (CRC/C/65/Add.22, para. 45)...

459. The Committee strongly recommends that the State party:

...

(b) Fix a minimum age for admission to employment, in line with internationally accepted standards;

(c) Ensure that domestic legislation on minimum ages is respected and implemented throughout the country.

- Armenia, CRC, CRC/C/137 (2004) 36 at paras. 218 and 219.

218. While domestic legislation includes provisions on maintenance allowance, and stipulates that persistent refusal by parents to pay court-ordered maintenance payments for their children is a criminal offence, the Committee is concerned at the lack of implementation of these provisions, partly due to widespread ignorance of the law.

219. The Committee recommends that the State party:

(a) Make widely known the provisions of domestic legislation concerning maintenance allowance and assist mothers, where necessary, in undertaking legal action;

(b) Ensure that professional groups dealing with this issue are adequately trained and the courts enforce more strictly the recovery of maintenance from solvent parents who refuse to pay;

(c) Take necessary measures to ensure that financial assistance is provided to children born out of wedlock and children of single-parent families in cases where maintenance cannot be obtained from solvent parents.

- Germany, CRC, CRC/C/137 (2004) 51 at paras. 285 and 286.

285. The Committee notes with appreciation the adoption of the third law to amend the federal law on child benefits (entered into force on 1 January 2001) which improves the possibility for both parents to take parental leave and the amendment of the law on parental custody which provides for shared parental custody (*Sorgerecht*) even when they are divorced, separated, or not married, but remains concerned that the judicial system is not yet prepared to fully implement this latter legislation.

286. The Committee recommends that the State party take all necessary measures for a full

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implementation of the new legislation relating to the law on parental custody, notably through adequate training for magistrates.

- India, CRC, CRC/C/137 (2004) 75 at paras. 407 and 408.

407. The Committee welcomes the National Plan of Action for the Girl Child and the Platform for Action, but is deeply concerned at the persistence of discriminatory social attitudes and harmful traditional practices towards girls, including low school enrolment and high dropout rates, early and forced marriages, and religion-based personal status laws that perpetuate gender inequality in areas such as marriage, divorce, custody and guardianship of infants, and inheritance.

408. The Committee urges the State party to take all necessary measures for the implementation of the National Plan of Action for the Girl Child and encourages the enforcement of protective laws. The Committee also encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat gender discrimination, particularly within the family. Political, religious and community leaders should be mobilized to support efforts to eradicate harmful traditional practices and attitudes which still discriminate against girls.

- Slovenia, CRC, CRC/C/137 (2004) 104 at paras. 563 and 564.

563. While welcoming the Act amending the Guarantee and Maintenance Fund of 2002, which removed the income restriction on exercising the right to compensation of maintenance, the Committee is concerned that the recovery of maintenance is not sufficiently protected in law and in practice and that the administrative and court proceedings of enforcing the right to maintenance are often lengthy.

564. The Committee urges the State party to take further measures to ensure a more effective implementation of legislation on the payment of maintenance, including by ensuring more expeditious court proceedings and strict enforcement of administrative and court orders.

- Japan, CRC, CRC/C/137 (2004) 116 at paras. 626 and 627.

626. The Committee is concerned that legislation discriminates against children born out of wedlock and that societal discrimination persists against girls, children with disabilities, Amerasian, Korean, Buraku and Ainu children and other minority groups, and children of migrant workers.

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627. The Committee recommends that the State party amend its legislation in order to eliminate any discrimination against children born out of wedlock, in particular, with regard to inheritance and citizenship rights and birth registration, as well as discriminatory terminology such as “illegitimate” from legislation and regulations. The Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination and ensure access to basic services, in particular, for girls, children with disabilities, Amerasians, Koreans, Buraka, Ainu and other minorities, children of migrant workers and refugee and asylum-seeking children, through, *inter alia*, public education and awareness campaigns.

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 69 and 70.

69. The Committee expresses its concern about the potential negative impact of international trade-related intellectual property agreements on access to affordable medicines.

70. The Committee recommends to the State party that it systematically consider the best interests of the child when negotiating trade-related intellectual property rights and implementing them into national law. In particular, the State party should conduct an assessment of the impact of international intellectual property rights agreements on the accessibility of affordable generic medicines, with a view to ensuring children’s enjoyment of the highest attainable standard of health.

- France, CRC, CRC/C/140 (2004) 124 at paras. 600, 601, 629 and 630.

600. The Committee welcomes the legislative efforts made by the State party to reinforce the rights of the child to express her/his views freely in all matters concerning her/him and have them duly taken into account. However, the Committee remains concerned at inconsistencies in legislation as well as the fact that in practice, the interpretation of the legislation, and determination of which child is “capable of discernment”, may leave possibilities of denying a child this right or make it subject to the child’s own request and may give rise to discrimination. In addition, the Committee is concerned at the conclusion of the Special Rapporteur on the sale of children, child prostitution and child pornography that, in practice, most judges are not willing to hear children and that in the past, justice has failed child victims of sexual abuse (E/CN.4/2004/9/Add.1, paras. 85 and 89).

601. The Committee recommends that the State party review legislation with a view to removing inconsistencies related to the respect for the views of the child. Furthermore, it

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is encouraged to continue to promote and facilitate, within the family, schools, institutions as well as in judicial and administrative proceedings, respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention, as a right they are informed of, not merely a possibility. It further encourages the State party to provide educational information to parents, teachers and headmasters, government administrative officials, the judiciary, children themselves and society-at-large with a view to creating an encouraging atmosphere in which children can freely express their views, and where in turn, these are given due weight.

...

629. The Committee notes the efforts of the State party to address the situation of unaccompanied minors by providing them assistance during their time in the holding area by an “ad hoc administrator” who replaces a legal representative. However, the Committee also notes that the number of minors in such situations has been steadily increasing, and that the implementation of the new legislation remains a challenge. Foreign unaccompanied minors continue to be deprived of their liberty and placed in detention with adults. The Committee is also concerned that unaccompanied children arriving at the airport may be returned to the country of origin without judicial intervention and without an evaluation of their family situation. It is further concerned at the absence of clear instructions to coordinate and facilitate access to basic services by these children for the protection of their rights. In addition to this, the age determination process allows for errors which may lead to minors not being accorded protection they are entitled to.

630. The Committee recommends that the State party pursue its efforts in this area, and, in particular:

- (a) To ensure a coordinated approach to the collection of information and statistics, allowing a response commensurate to the needs;
- (b) To establish norms that orient and coordinate actions aimed at guaranteeing access to basic services, in particular education, health and legal assistance;
- (c) To consider introducing recent methods of age determination which have proven more accurate than the method in use.

- Botswana, CRC, CRC/C/143 (2004) 25 at paras. 139 and 140.

139. The Committee notes with concern that there is an increasing number of children without adequate parental support due to various reasons, *inter alia*, the lack of child support by fathers.

140. The Committee recommends that the State party:

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(a) Take all necessary measures to provide parents and families in particularly difficult circumstances with the necessary financial and other support as much as possible;

(b) Take the necessary legislative and other measures to ensure that the best interests of the child are of primary consideration and that guardianship with one of the parents after divorce is not automatically granted to the father;

(c) Take measures to improve the enforcement of child support by fathers, in particular of children born out of wedlock, *inter alia*, by providing mothers with information about the legal provisions in this regard and with the necessary legal or other assistance free of charge for mothers who cannot afford it, not only for initiating legal actions but also for enforcing court decisions.

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 210, 211, 227 and 229.

210. While welcoming amendments to the legislation on maintenance, the Committee is concerned that recovery of maintenance is not sufficiently ensured in practice and that the related administrative and court proceedings are often too lengthy.

211. The Committee recommends that the State party take further measures to ensure that legislation on the payment of maintenance is fully implemented, consider alternative measures to court procedures in this regard and ensure more expeditious court proceedings and strict enforcement of court orders. The Committee also recommends that the State party reconsider establishing a fund to provide support to parents waiting for the decision regarding the maintenance of their child.

...

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 also 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....

- Belize, CRC, CRC/C/146 (2005) 59 at paras. 336 and 337.

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336. The Committee is concerned that recovery of maintenance is not sufficiently ensured in practice. It is concerned at the actual implementation and, in some cases, the absence of bilateral agreements for reciprocal enforcement of maintenance orders. The Committee also notes with concern that children of unmarried parents do not have equal right to maintenance as those of married parents.

337. In the light of article 27, paragraph 4, of the Convention, the Committee recommends that the State party take further measures to ensure the full implementation of legislation on the payment of maintenance as well as to ensure equal right to the recovery of maintenance for all children, irrespective of their parent's marital status. The Committee also recommends that the State party effectively implement and conclude bilateral agreements for reciprocal enforcement of maintenance orders and reconsider establishing a fund to provide support to parents waiting for the decision regarding the maintenance of their child.

- Bahamas, CRC, CRC/C/146 (2005) 77 at paras. 373 and 374.

373. The Committee welcomes the adoption of the Status of Children Act in 2002 which, *inter alia*, abolished the distinction between children born in wedlock and children born out of wedlock, particularly in relation to intestacy.

374. The Committee also notes with appreciation the adoption of the Inheritance Act in 2002, which makes provision for all children to have equal rights or entitlement in circumstances where property is distributed on intestacy.

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 462, 463, 468 and 469.

462. The Committee regrets that in all actions or decision-making relating to children the general principle of the best interests of the child, as provided for under article 3 of the Convention, continues not to be a primary consideration, including in matters relating to family law. In particular, the Committee regrets that article 1169 of the Civil Law relating to the custody of children after divorce prevents the court from taking the best interests of the child into account. In the Committee's view, custody determined solely on the basis of a child's age is both arbitrary and discriminatory against the mother.

463. The Committee reiterates its previous recommendation that the State party review its legislation and administrative measures to ensure that article 3 is reflected therein and implemented in all actions concerning children.

...

468. The Committee regrets that little progress has been made concerning respect for the

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views of the child in judicial decisions, including concerning custody, divorce, administrative decisions, in the family, at school and society at large, owing to the traditional societal attitudes towards children, and that the State party has insufficiently informed the public about the right of children to participate in all matters affecting them. The Committee is concerned that the child's view is only represented through the father or paternal grandfather or other appointed guardian and not directly by the child.

469. In the light of article 12 of the Convention, the Committee recommends that the State party promote the right of children to express their views fully in all matters affecting them at school, within the family, in the courts and administrative bodies and in society in general. In this regard, the Committee recommends that the State party adopt and implement appropriate legislation, and undertake awareness-raising campaigns and educational programmes on the implementation of the principle of "respect for the views of the child". The Committee also recommends that the State party seek assistance from, among others, UNICEF in this regard.

- Togo, CRC, CRC/C/146 (2005) 104 at paras. 541 and 542.

541. The Committee is concerned that in actions concerning children, the general principle of the best interests of the child, as contained in article 3 of the Convention, is not a primary consideration, including in matters relating to family law (e.g. custody under the law is determined by the child's age rather than the child's best interests).

542. The Committee recommends that the State party review its legislation and administrative measures to ensure that the principle of the best interests of the child is explicitly incorporated therein and that it is a primary consideration in all decisions, programmes and policies concerning children, at the national and local level, in courts, in schools and other institutions, in the family and in society at large.

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 123, 124, 149 and 150.

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... The Committee finally reiterates its concern about the unequal status of children

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born out of wedlock, particularly with regard to their right to inherit and their discriminatory classification as “illegitimate”.

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... As regards children born out of wedlock, the Committee requests the State party to review its domestic legislation in order to secure their right to equal treatment, including their right to equal inheritance and abolish the discriminatory classification of those children as “illegitimate”.

...

149. While noting the high number of Philippine children with a parent or both parents working overseas, the increasing number of Philippine children born abroad during overseas migration and the cases where paternity has not been established, the Committee is concerned that the State party has not sufficiently ensured the recovery of maintenance in practice. The Committee is concerned about the insufficient implementation of domestic laws, for example the relevant provisions of the Family Code and the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act, and the enforcement of court orders in this respect. In addition, the Committee is concerned at the actual implementation of, and in some cases, the absence of bilateral agreements for reciprocal enforcement of maintenance orders.

150. The Committee recommends that the State party secure in practice the recovery of maintenance for the child. As regards parent(s) working abroad, the Committee encourages the State party to conclude bilateral agreements for reciprocal enforcement of maintenance orders and consider establishing a fund to secure the payment of maintenance in those cases where the recovery of maintenance fails.

- Bosnia and Herzegovina, CRC, CRC/C/150 (2005) 49 at paras. 262 and 264.

262. While the Committee welcomes the fact that, as of September 2004, more than 1 million former refugees and displaced persons, including children, have returned home in the State party, it notes that a significant number of refugees from Bosnia and Herzegovina remain in the region (around 100,000 living in Serbia and Montenegro and Croatia and 50,000 living elsewhere) and that a further 314,000 are still displaced within the country. The Committee is also concerned at the information that violent incidents against returnees and displaced persons and their property, memorials or religious objects are frequent in the country.

...

264. The Committee recommends that the State party:

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- (a) Continue its efforts aimed at the safe return of displaced and refugee children and their parents and prevent, as much as possible, violent attacks against returnees and displaced persons and/or their property;
 - (b) Address the special needs and rights of displaced and refugee children, and in particular to ensure proper accommodation arrangements for these children as well as social and professional reintegration of their parents;
 - (c) Harmonize legislation at the Entity level with the refugee legislation at the State level;
 - (d) Look into the issue of children whose parents are asylum-seekers, temporarily admitted persons or recognized refugees, when neither the parents, nor the child are in possession of adequate documentation, and ensure them access to the rights prescribed for these categories of persons;
 - (e) Continue to seek technical cooperation from UNHCR in this regard.
- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 317, 318, 334, 335, 373 and 375.

317. With reference, *inter alia*, to the concerns of the Committee on the Elimination of Racial Discrimination (CERD/C/64/CO/5) regarding the persistent *de facto* caste-based discrimination against *Dalit* in education, employment, marriage, access to public places including water sources and places of worship, the Committee expresses serious concern about the harmful effects of this prevailing form of discrimination on the physical, psychological and emotional well-being of the *Dalit* children in the State party.

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

...

334. Given the significant number of Nepalese children who are adopted by foreigners and in the context of the current armed conflict in the State party, the Committee is concerned at the lack of a clear policy and appropriate legislation on intercountry adoption, which results in various practices, such as trafficking and smuggling of babies. The Committee is particularly concerned about the absence of due judicial process, including technical assessment of the capacity of the parents or guardians, in cases involving termination of the parental responsibility...

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335. The Committee recommends the State party to develop and implement policies and legal provisions regarding intercountry adoption to guarantee that the practice of this form of adoption is in full conformity with the principles and provisions of the Convention, in particular, article 21. In this regard, the Committee recommends the State party to, in particular:

...

(b) Review the current mechanisms and procedures for domestic and intercountry adoption, particularly the role and the responsibilities of the national and district level decision-making bodies with a view to ensuring that professionals responsible for adoption cases are fully equipped with the technical expertise needed to review and process cases in the light of the Hague Convention;

(c) Develop and implement strict criteria for the adoption of Nepalese children, ensuring in particular that reasonable time is given for an effective tracing of the parents or close relatives of children separated from them as a result of the armed conflicts, and abolish the provisions in the Conditions and Procedures made to provide Nepalese Children to Foreign Nationals for Adoption (2000), that states that poverty of the parents of a child can be a legal ground for adoption;

(d) Ensure that exhaustion of all means to prevent termination of parental responsibility and/or separation of the child is set as a clear criteria in all cases involving adoption;

...

373. While welcoming the abolition in 2000 of the *Kamaiya* system of bonded labour and the enactment in 2002 of the *Kamaiya* Prohibition Act, the Committee is concerned that a large number of *Kamaiya* children remain unreleased and continue to work as bonded labourers, and that many thousands of *Dalit* bonded labourers (*haliya*), including children, are reported to be working in agriculture in Western Nepal and in the plains. The Committee is particularly concerned that they continue to face serious difficulties in the areas of the right to housing, land, work and education.

...

375. ...[T]he Committee recommends the State party to strengthen the implementation of the *Kamaiya* Prohibition Act, and to take effective measures to ensure the social integration of the emancipated *Kamaiya* workers...

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 626 and 627.

626. While the Committee notes with appreciation that strengthening the family is an important strategy within the national policy for the comprehensive care of children and adolescents, it is concerned that insufficient financial and other resources have been provided for the implementation of this strategy. Furthermore, while noting that various legislative initiatives are currently under debate in this respect, the Committee is concerned

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at the lack of an appropriate and comprehensive regulation of family relations, e.g. via a comprehensive Code, as well as at the lack of specialized family courts.

627. The Committee recommends that the State party:

(a) Promote and support responsible parenthood, *inter alia* by providing families with financial allowances when needed;

(b) Approve and implement appropriate regulations of family relations that reflect and incorporate international standards ratified by the State party, such as the Convention on the Rights of the Child, preferably by developing a comprehensive code;

(c) Establish specialized family courts with trained judges and other professionals involved, and ensure that family law practice is accessible to everybody and that family law procedures are conducted without undue delay.

- Costa Rica, CRC, CRC/C/150 (2005) 149 at paras. 702 and 703.

702. The Committee recognizes the continuum of alternative care services available from PANI for children deprived of a family environment. It is however concerned at the considerable duration of interim placement, which in some cases may last over three years, before the matter is brought before a judge for a decision on the final placement of these children.

703. The Committee recommends that interim placement is done for the shortest period of time and regularly reviewed in accordance with article 25 of the Convention. The Committee further recommends that the matter be brought before a judge at the initial phase of the separation of the child from his or her parents.

- Yemen, CRC, CRC/C/150 (2005) 161 at paras. 776 and 777.

776. The Committee is concerned that existing laws and practice do not reflect article 18 of the Convention, according to which both parents have equal responsibility for the upbringing of their children, e.g. for children born out of wedlock, and that the best interests of the child is not a primary consideration in decisions regarding custody, guardianship and affiliation.

777. The Committee urges that the State party expedite the amendments to the law now under consideration which, according to the information of the delegation, will bring the law in line with the provisions of the Convention. The Committee further recommends that the

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State party take the measures necessary for the full implementation of the amended law in practice.