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IV. CONCLUDING OBSERVATIONS

CERD

- Bangladesh, CERD, A/47/18 (1992) 35 at para. 127.

Reports on the human rights of the ethnic minorities in the Chittagong Hill Tracts, including the forced transfer of the population, are of grave concern.

- Bosnia and Herzegovina, CERD, A/48/18 (1993) 87 at para. 467.

Grave concern was expressed about the massive, gross and systematic human rights violations occurring in the territory of Bosnia and Herzegovina, as well as practices of "ethnic cleansing", including forced population transfers, torture, rape, summary executions, the blockading of international humanitarian aid and the commission of atrocities for the purpose of instilling terror among the civilian population. The lack of effective action to bring to an end these and other human rights violations is deplored.

- Papua New Guinea, CERD, A/48/18 (1993) 103 at para. 568.

Reports of serious human rights violations in Bougainville, including summary executions and population transfers, are of concern.

- Croatia, CERD, A/50/18 (1995) 36 at para. 169.

Note is taken that many Bosnian Muslim refugees have failed or had great difficulty and extreme delay in obtaining the necessary documentation to allow them access to essential social and humanitarian services in Croatia, and have thus been obliged to return to sometimes life-threatening situations in Bosnia and Herzegovina. Concern is also expressed about the incident in late summer of 1994 when the State party refused to allow some 30,000 externally displaced persons, all Bosnian Muslims, to leave appalling camp conditions in UNPA North and the demilitarized zone and enter areas of Croatia under its control.

- Colombia, CERD, A/51/18 (1996) 15 at para. 53.

The State Party should give the necessary attention to the migration processes, including by

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undertaking large-scale awareness-raising programmes oriented towards human rights and tolerance, in order to avoid social and racial prejudice and discrimination.

- Denmark, CERD, A/51/18 (1996) 17 at para. 69.

The attempts of municipalities to prevent undue concentrations of ethnic minority families in "socially-burdened" urban neighbourhoods should not be discriminatory in effect.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/51/18 (1996) 35 at para. 233.

Special concern is expressed for the Irish Traveller community, whose situation affects their right to public health care and social services under article 5 (e). It is noted that the policy of designating land for the use of Travellers has contributed to their lower standard of living and has curtailed their freedom of movement by limiting the places which they might inhabit.

- Belgium, CERD, A/52/18 (1997) 31 at paras. 222 and 230.

Paragraph 222

Article 18 *bis* of the Act of 15 December 1980, which permits the limitation of the temporary or permanent residence of foreigners in certain communes is of concern.

Paragraph 230

The State party should reconsider article 18 *bis* of the Act of 15 December 1980, which appears to be in breach of article 5 (d) (i) of the Convention.

- Philippines, CERD, A/52/18 (1997) 55 at para. 425.

In connection with article 5 (d) (i) and (v) of the Convention, concern is expressed at reports of forced evictions and displacements of indigenous populations in development zones, as well as at reports that specific groups of indigenous peoples have been denied by force the right to return to some of their ancestral lands.

- Burundi, CERD, A/52/18 (1997) 73 at para. 577.

Concern is expressed over reports that people, mostly of Hutu origin, are forced by the police to

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leave their homes and settle in regroupment camps, which are kept under the control of the army, in violation of article 5 (d) (i) of the Convention.

- Switzerland, CERD, A/53/18 (1998) 28 at para. 58.

The restrictions on freedom of movement imposed on the Jenisch population and on the Sinti and Roma minorities, as well as tendencies to discredit them, are matters of concern.

- Iraq, CERD, A/54/18 (1999) 35 at para. 348.

Concern is expressed over allegations that the non-Arab population living in the Kirkuk and Khanaquin areas, especially the Kurds, Turkmen and Assyrians, have been subjected by local authorities to measures such as forced relocation, denial of equal access to employment and educational opportunities and limitations in the exercise of their rights linked to the ownership of real estate.

- Latvia, CERD, A/54/18 (1999) 39 at para. 396.

Concern is expressed that persons who do not qualify for citizenship and are not registered as residents, including those leaving the country temporarily, may not be protected against racial discrimination in their exercise of rights under article 5 (d) (i) and (ii) and (e) of the Convention.

- Colombia, CERD, A/54/18 (1999) 44 at para. 467.

Concern is expressed that measures by the State party to assist the displaced have been limited and that some internally displaced persons have been forced to return to regions where minimal conditions of safety could not be guaranteed.

- Slovakia, CERD, A/55/18 (2000) 47 at para. 260.

Settlement patterns with regard to the Roma minority are of concern. The Committee is particularly concerned about the fact that two municipalities issued decrees banning Roma from their territory and the duration of proceedings to lift them. The State party should review legislation regulating local residence permits, investigate promptly and thoroughly incidents of discrimination in access to housing and give speedy consideration to these issues.

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- Sri Lanka, CERD, A/56/18 (2001) 56 at para. 328.

It is noted with approval that in July 2001 media restrictions were lifted. Thus, the system of requiring journalists to obtain permission to visit all areas in the north and eastern provinces is no longer in effect.

ICCPR

- Belarus, ICCPR, A/47/40 (1992) 124 at para. 560.

Certain drafts pending before the legislature are not in full conformity with the provisions of the Covenant, particularly with respect to freedom of movement. Problems in this regard relate in particular to grounds on which passports may be issued, and to clauses dealing with exit visas, particularly in respect of holders of State secrets - which are incompatible with article 12, paragraph 3, of the Covenant. The planned retention of the internal residence permit (*propiska*) system is also of concern.

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at para. 261.

Legal provisions allowing for the possibility of banishing individuals, preventing them from residing in the place of their choice, or compelling them to reside in a given locality, are not considered to be compatible with article 12 of the Covenant.

- Dominican Republic, ICCPR, A/48/40 vol. I (1993) 95 at para. 460.

The lack of protection afforded to Haitians living or working in the country from such serious human rights abuses as forced labour and cruel, inhuman or degrading treatment is of concern. Concern is also expressed over the fact that the protection of the fundamental human rights of foreigners is subject to reciprocity. The degrading living and working conditions of Haitian labourers and the tolerated practices that effectively restrict their freedom of movement are also of concern. Furthermore, while many Haitian workers have been prevented from leaving their place of work, there have also been incidents of mass expulsions from the country. In this regard, the Committee considers that Presidential Decree No. 233-91, which resulted in the mass deportation of Haitian workers under 16 and over 60 years of age, represents a serious violation of several articles of the Covenant.

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- Norway, ICCPR, A/49/40 vol. I (1994) 19 at para. 92.

Concern is expressed over the vagueness of the criterion of "compelling social considerations", under which a foreign national's right to choose his or her place of residence may be restricted, and its conformity with article 12 of the Covenant.

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at paras. 320 and 330.

Paragraph 320

Continuing obstacles to freedom of movement in Ukraine, and particularly the legal provisions which allow for the rejection of passport applications from holders of State secrets, are disturbing. The requirement of exit visas and the persistence of the internal passport are unacceptable and incompatible with article 12 of the Covenant.

Paragraph 330

Existing provisions limiting or restricting the exercise of the right to freedom of movement, including the internal passport requirements, as well as the legal provisions relating to holders of State secrets, should be reviewed to bring the legislation fully in conformity with article 12 of the Covenant.

- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at paras. 381 and 398.

Paragraph 381

Although federal law has provided for the abolition of the *propiska* (residence permit) system, it is of concern that at regional and local levels, the system is still applied in practice, thus violating not only the Constitution, but also article 12 of the Covenant.

Paragraph 398

The abolition of the *propiska* system should be carried out all over the country without exceptions. All regional and local authorities should be made to comply with the Federal policy of abolishing the *propiska* system (i.e. the system of "internal passes" or "passports").

- Gabon, ICCPR, A/52/40 vol. I (1997) 24 at paras. 132 and 142.

Paragraph 132

With regard to the rights of non-Gabonese citizens and refugees living in Gabon, the legal impediments to their freedom of movement within the country, as well as the requirement of an exit visa for foreign workers, which run counter to the provisions in article 12 of the Covenant are of concern.

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Paragraph 142

Existing provisions, such as article 1, paragraph 3, of the Constitution limiting or restricting the exercise of the right to freedom of movement for non-Gabonese citizens, including the requirement of exit visas, should be reviewed to bring the legislation fully into conformity with article 12 of the Covenant.

- Iraq, ICCPR, A/53/40 vol. I (1998) 18 at para. 103.

Reports regarding the arbitrary restrictions imposed by the authorities on the right to freedom of movement within Iraq and freedom to leave the territory of the State party, in breach of Iraq's obligations under article 12 of the Covenant, are noted with concern. Therefore, measures should be taken to ensure that article 12 is complied with and, among other things, that administrative costs for the issue of passports are reduced.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at paras. 125 and 133.

Paragraph 125

Concern is expressed over the fact that visas for foreign travel may be arbitrarily refused, in contravention of article 12 of the Covenant, that immigration officers may arbitrarily require women to show that a male relative consents to their leaving the Sudan, and that lists of names drawn up by various executive agencies without meeting any defined legal criteria are apparently used to restrict the freedom of movement of persons, including to leave the country. Therefore, any limitations on the freedom of movement must be established by law and be compatible with the provisions of the Covenant. The grounds for restricting a person's freedom of movement, including to leave the country, must comply with the Covenant and should be communicated to the individual promptly after such action is taken and should furthermore be open to prompt judicial review in all cases, including those of national security.

Paragraph 133

Restrictions on the liberty of women under the Personal Status of Muslims Act, 1992 are matters of concern under articles 3, 9 and 12 of the Covenant. Therefore, all laws, including those dealing with personal status, should be made compatible with the Covenant.

- Lithuania, ICCPR, A/53/40 vol. I (1998) 30 at para. 172.

It is of concern that the right of foreign nationals to freedom of movement may be restricted on grounds not compatible with the Covenant and that restrictions on the right to leave Lithuania are imposed on persons who, because of their employment, may have information relating to state

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secrets. Furthermore, the restrictions imposed on the freedom of movement of asylum-seekers with temporary refugee status and that the failure to observe those restrictions may result in the rejection of the claim for asylum are of concern. Provisions which restrict freedom of movement in a manner incompatible with article 12 of the Covenant should be repealed.

- Israel, ICCPR, A/53/40 vol. I (1998) 45 at paras. 318-320.

Paragraph 318

While acknowledging the security concerns that have led to restrictions on movement, the continued impediments imposed on movement, which affect mostly Palestinians travelling in and between East Jerusalem, the Gaza Strip and the West Bank, and which have grave consequences affecting nearly all areas of Palestinian life, are noted with regret. Israel is urged to respect the right to freedom of movement provided for under article 12, including the right to return to one's country.

Paragraph 319

The increasingly restrictive conditions for maintaining the right to permanent residence, the denial of requests for family reunification and the difficulty experienced by non-Jews in obtaining building permits and accommodation have resulted in increasing number of people being forced to move to the occupied territories. Profound concern is expressed at the effect of the unpublished directive of the Ministry of the Interior, under which Palestinians may lose their right to live in the city if they cannot prove that East Jerusalem has been their "centre of life" for the past seven years. This policy is being applied retroactively to both Palestinians who live abroad and to those who live in the West Bank or in nearby Jerusalem suburbs, but not to Israeli Jews or to foreign Jews who are permanent residents of East Jerusalem. The rules and procedures relating to permanent residency status should be applied without discrimination.

Paragraph 320

The demolition of Arab homes as a means of punishment is deplored, as is the practice of demolitions, in part or in whole, of "illegally" constructed Arab homes. The difficulties imposed on Palestinian families seeking to obtain legitimate construction permits are noted with regret. The demolition of homes conflicts directly with the obligation of the State party to ensure without discrimination the right not to be subjected to arbitrary interference with one's home (article 17), the freedom to choose one's residence (article 12) and equality of all persons before the law and equal protection of the law (article 26).

- Armenia, ICCPR, A/54/40 vol. I (1999) 29 at para. 103.

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Article 22 of the Constitution, which guarantees freedom of movement only to Armenian citizens, contravenes article 12 of the Covenant.

- Libyan Arab Jamahiriya, ICCPR, A/54/40 vol. I (1999) 32 at para. 137.

In spite of the Government's efforts, inequality between men and women persists in a number of areas, such as inheritance, freedom of movement, acquisition and transmission of nationality and divorce.

- Morocco, ICCPR, A/55/40 vol. I (2000) 24 at 114 and 115.

Paragraph 114

It is not clear under which laws exile may be imposed or withdrawn or how the right to obtain a passport and, where applicable, an exit visa can be enforced by individuals.

Paragraph 115

The State party should ensure that its laws are in conformity with article 12 of the Covenant, that the laws are transparent and that effective remedies are available to enforce the rights protected by article 12.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 408 and 409.

Paragraph 408

The continued existence of the authorization (*propiska*) system violates the right to freedom of movement and choice of residence under article 12 of the Covenant.

Paragraph 409

The State party should abolish the authorization system (*propiska*) and give full effect to the provisions of article 12 of the Covenant.

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at para. 447.

The State party should ensure that requirements relating to the place of residence of refugees do not infringe the rights to liberty of movement protected under article 12.

- Denmark, ICCPR, A/56/40 vol. I (2001) 34 at para. 73(17).

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Asylum-seekers in Denmark are often restricted or discouraged from choosing a residence in specific municipalities or from moving from one municipality to another. Any such measures should be applied in strict compliance with article 12 of the Covenant.

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at paras. 78(17) and 78(18).

Paragraph 78(17)

Concern is expressed over the living and working conditions of Haitian workers and the tolerated practices that restrict their freedom of movement. The State party should give priority to addressing the issue of the working and living conditions of Haitian workers.

Paragraph 78(18)

The abuse of the legal notion of "transient aliens" is of concern. According to information in the Committee's possession, such persons may be born in the Dominican Republic to parents who were also born there but are still not considered to be nationals of the Dominican Republic. The State party should regulate the situation of everyone living in the country and grant the rights recognized by article 12 of the Covenant.

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at para. 86(19).

The requirement that citizens obtain "travellers' certificates" for travel within the state is a restriction on domestic travel that raises serious questions of compatibility with article 12, paragraph 1 of the Covenant. The State party should consider the elimination of the requirement of traveller's certificates.

ICESCR

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1995/22 (1994) 52 at para. 290.

It is of concern that in the case of Hai Ho-Tak conflicting explanations have been received regarding the reasons for the separation of the child from his parents and as to which authorities are in a position to resolve the problem. These explanations are unconvincing. Undue broad bureaucratic reasons have been used as a justification for a measure which is not compatible with the rights recognized in article 10. The suggestion that the child's parents should apply for a one-way permit would not appear to be an adequate solution, given the very lengthy delay that would result. The Government should reconsider its response to this case. It is also noted that no compelling reason has

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been offered by the Government for its refusal to provide a statutory right of appeal in immigration cases which involve exceptional circumstances of a humanitarian nature and this principle should also be reconsidered.

- Algeria, ICESCR, E/1996/22 (1995) 54 at para. 294.

It is deplored that fundamental freedoms such as the right to work, to education, to freedom of movement, and the right freely to choose a spouse are not fully guaranteed for women in the State party.

- Iraq, ICESCR, E/1998/22 (1997) 50 at para. 258.

With respect to article 3 of the Covenant, concern is expressed about discrimination against women, in law and in practice, in the areas of inheritance rights, freedom of movement, family law, equal remuneration for equal work, and access to employment.

- Israel, ICESCR, E/1999/22 (1998) 43 at paras. 243, 265 and 266.

Paragraph 243

It is regretted that the Government of Israel has maintained "general closures" continuously since 1993, thereby restricting and controlling the movement of people and goods between Israel and the West Bank and the Gaza Strip, between Jerusalem and the West Bank and between the West Bank and the Gaza Strip. It is noted with concern that these restrictions apply only to Palestinians and not to Jewish Israeli citizens. The closures have cut off Palestinians from their own land and resources, resulting in widespread violations of their economic, social and cultural rights.

Paragraph 265

The State party should respect the right to self-determination as recognized in article 1, paragraph 2, of the Covenant, which provides that "in no case may a people be deprived of its own means of subsistence". Closure restricts the movement of people and goods, cutting off access to external markets and to income derived from employment and livelihood. The Government should undertake to ensure safe passage at checkpoints for Palestinian medical staff and people seeking treatment, the unhampered flow of essential foodstuffs and supplies, the safe conduct of students and teachers to and from schools, and the reunification of families separated by closures.

Paragraph 266

The State party should reassess its Permanent Residency Law with a view to ensuring that its

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implementation does not result in impeding the enjoyment of economic, social and cultural rights by Palestinians in East Jerusalem. In particular, the quota system currently in place should be removed so that families separated by residency rules can be reunited without delay.

- Sudan, ICESCR, E/2001/22 (2000) 57 at paras. 297, 311 and 325.

Paragraph 297

The Committee welcomes the State party's various measures to improve the status of women, to alleviate or remove some of the obstacles to their freedom to travel.

Paragraph 311

Grave concern is expressed about the occurrence of flagellation or lashing of women for wearing allegedly indecent dress or for being out in the street after dusk, on the basis of the Public Order Act of 1996, which has seriously limited the freedom of movement and of expression of women.

Paragraph 325

Specific measures should be developed to eliminate ingrained harmful traditions, customs and prejudices against women, such as female genital mutilation, the limitation of their freedom of movement and expression, and any obstacles that hinder women's full participation in society.

- Nepal, ICESCR, E/2002/22 (2001) 83 at paras. 545 and 570.

Paragraph 545

It is noted with concern that only Tibetans who arrived in Nepal before 1990 and the Bhutanese are recognized as refugees by the authorities. It is further noted that while the Tibetan refugees benefit from appropriate treatment, the Bhutanese refugees are not allowed to work, are not allowed freedom of movement outside their refugee camps, and do not have access to the same health and educational facilities as Nepalese citizens.

Paragraph 570

The State party should acknowledge people other than those from Tibet and Bhutan as refugees and provide the same kind of treatment to all refugees.

- Israel, ICESCR, E/2002/22 (2001) 103 at paras. 704 and 706.

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Paragraph 704

Deep concern is expressed about the continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted to restrict the movement of civilians between points within and outside the occupied territories, severing their access to food, water, health care, education and work. It is of particular concern that on frequent occasions, the State party's closure policy has prevented civilians from reaching medical services and that emergency situations have ended at times in death at checkpoints. There is alarm over reports that the Israeli security forces have turned back supply missions of the International Committee of the Red Cross and the United Nations Relief and Works Agency for Palestine Refugees in the Near East attempting to deliver food, water and medical relief to affected areas.

Paragraph 706

The State party is urged to exercise its powers and responsibilities to put an end to the violence, the loss of human lives and the restrictions imposed on the movement of civilians between points within and outside the occupied territories. In this regard, the State party is urged to implement without delay its obligations under the Covenant and to desist from decisions and measures resulting in violations of the economic, social and cultural rights of the population living in the occupied territories.

CEDAW

- Nigeria, CEDAW, A/53/38/Rev.1 part II (1998) 61 at para. 157.

Effective measures should be taken to change laws and cultural norms which allow such practices as polygamy, one-sided repudiation, unequal subsistence rights and shares, as well as preventing women from travelling without the permission of a male relative.

- Jordan, CEDAW, A/55/38 part I (2000) 16 at paras. 172 and 173.

Paragraph 172

That Jordanian law prohibits women from concluding contracts in their own name, from travelling alone and from choosing their place of residence, is noted with concern. These limitations on the rights of women are inconsistent with the legal status of women under the Jordanian Constitution and the Convention.

Paragraph 173

The State party is called upon to revoke these laws and to withdraw its reservations to articles 9.2 and 15.4 of the Convention.

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CAT

- Cuba, CAT, A/53/44 (1998) 12 at para. 114.

Certain types of punishment primarily directed at the limitation of the liberty of citizens, i.e. internal exile and confinement at home, are matters of great concern.

CRC

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 290 and 291.

Paragraph 290

Concern is expressed that in practice the system of residence registration in Kyrgyzstan may restrict the rights of children belonging to vulnerable groups (e.g. refugees, non-citizens, migrants and persons internally displaced owing to conflict, economic factors, or environmental disasters) to access to health care and other social services. In particular, concern is expressed about reports that officials at the local level are sometimes reluctant to see migrants settle in their jurisdiction and do not observe regulations concerning temporary residence registration. The fact that individuals without appropriate documentation for residing in Bishkek risk relocation to another part of the country is a concern.

Paragraph 291

The State party should ensure that the registration system does not pose a barrier to access to services, particularly for the most vulnerable groups. The State party should consider the experience of States that have replaced the *propiska* system with systems which correspond better to international standards in the area of freedom of movement.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 123 and 124.

Paragraph 123

Deep concern is expressed about the violations of the rights to freedom of movement and to choose one's residence in the context of the State party's regroupment policy. Concern is also expressed about the large number of children in regroupment camps and the extremely poor conditions in which they have to live, constituting, in many cases, cruel, inhuman and degrading treatment and violating numerous minimum standards with respect to children's rights.

Paragraph 124

The State party is urged to complete, without further delay, the process of closing the regroupment camps and, pending closure, to guarantee respect of all the civil rights and freedoms of children and

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their families living in such camps.

- Lesotho, CRC, CRC/C/103 (2001) 57 at paras. 335 and 336.

Paragraph 335

Concern is expressed about the difficulties and humiliation faced by mothers of children born out of wedlock in obtaining travel documents for their children.

Paragraph 336

It should be ensured that children born out of wedlock can obtain travel documents as easily and quickly as all other children.