

PRIVACY - RIGHT TO

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Slovenia, CERD, A/58/18 (2003) 45 at para. 235.

235. The Committee expresses concern about the paucity of available data on the implementation of the Convention and emphasizes the importance of additional information, including statistical information, on the extent of integration of minorities into society. It recommends that the State party, while ensuring protection of individual privacy, provide relevant information on the demographic composition of its population...

- Latvia, CERD, A/58/18 (2003) 75 at para. 440.

440. The Committee... welcomes the adoption of the new Law on Personal Identification Documents removing the requirement to record a person's ethnic origin, as recommended by the Committee in its previous concluding observations (CERD/C/304/Add.79, para. 24).

- Portugal, CERD, A/59/18 (2004) 66 at para. 365.

365. The Committee notes the absence of statistical data on the ethnic composition of the population owing to the State party's legislation, which prohibits the collection of data and statistics on race and ethnicity.

The Committee is of the opinion that, if progress in eliminating racial discrimination based on race, colour, descent, and national and ethnic origin is to be monitored, some indication is needed of the number of persons who could suffer discrimination on these grounds. The Committee therefore recommends that, in line with paragraph 8 of the reporting guidelines, the State party provide information on the use of mother tongue as indicative of ethnic differences, together with information derived from targeted social surveys performed on a voluntary basis and in full respect of the privacy and anonymity of the individuals concerned.

ICCPR

- Sweden, ICCPR, A/57/40 vol. I (2002) 57 at para. 79(12).

(12) While it understands the security requirements relating to the events of 11 September 2001, and takes note of the appeal of Sweden for respect for human rights within the

PRIVACY - RIGHT TO

framework of the international campaign against terrorism, the Committee expresses its concern regarding the effect of this campaign on the situation of human rights in Sweden, in particular for persons of foreign extraction...The Committee also stresses the risk of violations of fundamental rights of persons of foreign extraction (freedom of expression and privacy), in particular through more frequent recourse to telephone tapping and because of an atmosphere of latent suspicion towards them (articles 13, 17 and 19 of the Covenant).

(a) The State party must ensure that measures taken under the international campaign against terrorism are fully in conformity with the Covenant. The State party is requested to ensure that the concern over terrorism is not a source of abuse;

...

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at para. 77(19).

(19) The Committee notes the criminalization of some behaviours such as those characterized as "debauchery" (articles 17 and 26 of the Covenant).

The State party should ensure that articles 17 and 26 of the Covenant are strictly upheld, and should refrain from penalizing private sexual relations between consenting adults.

- Portugal, ICCPR, A/58/40 vol. I (2003) 56 at paras. 83(15) and 83(18).

(15) The Committee notes with concern that many of the provisions relating to terrorism in the Penal Code and the Code of Penal Procedure relate to exceptional situations, which may result in violations of articles 9, 15 and 17 of the Covenant.

The State party should ensure that measures taken against terrorism do not infringe the provisions of the Covenant and that exceptional provisions are not abused by State officials.

...

(18) The Committee is concerned that lawyers and medical doctors may be required to give evidence, despite their duty of confidentiality, in cases which are described in very broad terms by the Code of Criminal Procedure (art. 17).

The State party should amend its legislation so that it specifies the precise circumstances in which limitations on the professional privilege of lawyers and medical doctors are imposed.

PRIVACY - RIGHT TO

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(9).

(9) The Committee notes with concern that the so-called “anti-terrorist statute” (draft legislative act No. 223 of 2003) was adopted into Colombian law in December 2003. This law makes provision for granting to the armed forces the powers of judicial police, and also authorizes searches, administrative detention and other measures without a prior judicial order. It also places restrictions on the right to privacy and the right to apply for remedies. These provisions do not seem to be compatible with the guarantees set forth in the Covenant (arts. 9, 14 and 17).

The State party should ensure that, in the application of this law, no breaches of the guarantees laid down in the Covenant (arts. 2, 9, 14 and 17) occur.

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at para. 68(8).

(8) The Committee commends the continuing positive role of the Federal Constitutional Court in safeguarding fundamental rights, e.g. through its decisions to strengthen the protection of religious liberties and to improve the protection of privacy in the area of audio surveillance of residential premises.

CEDAW

- Sri Lanka, CEDAW, A/57/38 part I (2002) 31 at para. 299.

299. The Committee urges the State party to allocate more resources to meet the needs of internally displaced women and children and to ensure their privacy, access to health facilities, security and protection from violence...

- Israel, CEDAW, A/60/38 part II (2005) 129 at paras. 261 and 262.

261. The Committee is concerned by the State party’s assertion that it is not in a position to implement the law prohibiting polygamy and enforce the minimum age of marriage owing to respect for the privacy rights of persons engaging in such practices. The Committee is further concerned that petitions for the under-age marriage of girls are regularly granted.

262. The Committee urges the State party to take active measures to enforce the prohibition of polygamy and enforce adherence to the minimum age of marriage. The Committee recommends that the State party take comprehensive and effective measures, including public awareness-raising campaigns, aimed at eliminating the practices of polygamy and

PRIVACY - RIGHT TO

early-age marriage.

CAT

- Azerbaijan, CAT, A/58/44 (2003) 36 at paras. 88 and 89.

88. The Committee is concerned about:

...

(k) Reports that the ability of detained persons to lodge a complaint is unduly limited by censorship of correspondence and by the failure of the authorities to ensure the protection of the complainants from reprisals;

...

89. The Committee recommends that the State party:

...

(k) Ensure the right of detainees to lodge a complaint by ensuring their access to an independent lawyer, by reviewing rules on censorship of correspondence and by guaranteeing in practice that complainants will be free from reprisals;

...

- Slovenia, CAT, A/58/44 (2003) 44 at paras. 115 and 116.

115. The Committee expresses concern about the following:

...

(d) Allegations of excessive use of force by the police, especially against members of ethnic minorities, continue. The Committee regrets the fact that disaggregated statistical data in this respect are not available from the State party;

(e) There is no adequate legal guarantee of the right of persons deprived of liberty to have access to a doctor of their choice from the outset of their custody. The Committee notes article 74 of the Rules on Police Powers that makes provision for medical assistance, but considers that this is not sufficient as a safeguard against ill-treatment and torture;

...

116. The Committee recommends that the State party:

...

(d) Strengthen existing efforts to reduce occurrences of ill-treatment by police and other public officials, in particular that which is ethnically motivated, and, while ensuring protection of individual privacy, devise modalities for collecting data and monitoring the occurrence of such acts in order to address the issue more effectively.

(e) Strengthen the safeguards provided in the Code of Criminal Procedure against ill-

PRIVACY - RIGHT TO

treatment and torture and ensure that, in law as well as in practice, all persons deprived of their liberty are guaranteed the right to have access to an independent doctor. Privacy of medical examinations should be ensured;

...

- Chile, CAT, A/59/44 (2004) 28 at paras. 56 and 57.

56. The Committee expresses concern about the following:

...

(g) The limited mandate of the National Commission on Political Imprisonment and Torture aimed at identifying victims of torture during the military regime and the conditions for obtaining reparation...

...

57. The Committee recommends that the State party should:

...

(k) Extend the term and mandate of the National Commission on Political Imprisonment and Torture to enable victims of all forms of torture, including victims of sexual violence, to file complaints. To this end:

...

(ii) Ensure that victims will be afforded privacy when registering with the Commission, and that persons in rural areas or otherwise unable to file in person can register;

...

- Czech Republic, CAT, A/59/44 (2004) 42 at paras. 86 and 87.

86. The Committee expresses concern about the following:

(a) The persistent occurrence of acts of violence against the Roma and the alleged reluctance on the part of the police to provide adequate protection and to investigate such crimes, despite efforts made by the State party to counter such acts;

...

(f) Medical consultations may not always be confidential and the decision to resort to restraints is not always covered by the law or regularly reviewed;

...

87. The Committee recommends that the State party:

...

(c) Strengthen existing efforts to reduce occurrences of ill-treatment by the police and other public officials, including those which are ethnically motivated, and, while ensuring protection of an individual's privacy, devise modalities of collecting data and monitoring the

PRIVACY - RIGHT TO

occurrence of such acts in order to address the issue more effectively;

...

(h) Ensure that medical examinations are confidential and consider possibilities of transferring the medical services from the Ministry of Justice to the Ministry of Health;

...

- Greece, CAT, A/60/44 (2004) 20 at para. 48.

48. The Committee recommends that the State party:

(a) Strengthen existing efforts to reduce occurrences of ill-treatment, including that which is racially motivated, by police and other public officials. While ensuring protection of individual privacy, the State party should devise modalities for collecting data and monitoring the occurrence of such acts in order to address the issue more effectively. The Committee recommends that the State party continue to take measures to prevent incidents of xenophobic and discriminatory behaviour;

...

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

56. The Committee notes:

...

(g) The requirement that body cavity searches be carried out by medical rather than correctional staff in a non-emergency situation and after written consent and access to legal advice have been provided;

...

CRC

- Greece, CRC, CRC/C/114 (2002) 25 at paras. 136 and 137.

136. The Committee expresses its concern at reports of administrative and social pressures being placed on children from religious minorities including, for example, the requirement that a student's secondary school graduation certificate indicate, where this is the case, that the student does not practise the Greek Orthodox religion.

137. The Committee recommends that the State party ensure that a child's religious affiliation, or lack of one, in no way hinders respect for the child's rights, including the right to non-discrimination and to privacy, for example in the context of information included in

PRIVACY - RIGHT TO

the school graduation certificate.

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 69 and 70.

69. The Committee, while noting the adoption of Law 24.417 on protection against domestic violence, remains concerned about the extent of domestic violence, the lack of standardized procedures for the identification and reporting of cases of neglect, ill-treatment and abuse, and the limited services for the support of victims, especially in the provinces.

70. In light of article 19 of the Convention, the Committee recommends that the State party:

...

(c) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure, in order to ensure better protection of child victims, including the protection of their right to privacy;

...

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/121 (2002) 23 at paras. 152 and 154.

152. ...[T]he Committee notes with concern that:

...

(d) The privacy of children involved in the criminal justice system is not always protected and their names are, in cases of serious offences, often published;

...

154. ...[T]he Committee recommends that the State party:

...

(d) Ensure that the privacy of all children in conflict with the law is fully protected in line with article 40 (2) (b) (vii) of the Convention;

...

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

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 the principles and provisions of the Convention.

194. The Committee recommends that the State party:

PRIVACY - RIGHT TO

...

(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.

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at para. 464.

464. The Committee recommends that the State party:

...

(c) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions to perpetrators, having due regard to guaranteeing the right to privacy of the child;

...

- Estonia, CRC, CRC/C/124 (2003) 9 at paras. 52, 53 and 72.

52. The Committee...remains concerned that there is still insufficient information on and awareness of the ill-treatment and abuse of children within the family, in schools and in institutions, as well as of domestic violence and its impact on children. Moreover, it is concerned that current efforts in this regard may have limited impact because of the lack of a comprehensive strategy and the inadequate allocation of resources.

53. The Committee recommends that the State party:

...

(e) Investigate and prosecute instances of ill-treatment, ensuring that the abused child is not further victimized in legal proceedings and that his or her privacy is protected;

...

72. The Committee notes the existence of the Crime Prevention Council and a new training council to train judges and prosecutors, and appreciates that the minimum age of criminal responsibility has recently been raised to 14 years. However, the Committee is concerned:

...

(b) That there have been several cases recently where the child's right to privacy in criminal proceedings has not been respected by the media;

...

- Czech Republic, CRC, CRC/C/124 (2003) 78 at para. 362.

362. The Committee recommends that the State party take action to address ill-treatment and abuse committed against children in the family, in schools, in the streets, in institutions

PRIVACY - RIGHT TO

and in places of detention through, *inter alia*:

...

(c) Developing an effective system for the reporting and investigation of cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure, avoiding repeatedly interviewing child victims of abuse, in order to ensure better protection of child victims, including the protection of their right to privacy;

...

- Eritrea, CRC, CRC/C/132 (2003) 8 at paras. 81 and 82.

81. Although the State party recognizes that prostitution, including child prostitution, is not a serious problem, the Committee notes with concern the lack of specific data on the commercial sexual exploitation of children.

82. The Committee recommends that the State party:

...

(c) Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner that respects the privacy of the victim;

...

- Zambia, CRC, CRC/C/132 (2003) 32 at para. 223.

223. ...The Committee specifically recommends that the State party:

...

(h) Ensure that the right to privacy of juvenile offenders is guaranteed and take all necessary measures to ensure that the identity of the juvenile offender is not revealed by the media;

...

- Sri Lanka, CRC, CRC/C/132 (2003) 48 at paras. 271 and 272.

271. Almost 20 years of civil conflict has had an extremely negative impact on the implementation of the Convention in the State party. While recognizing that children will greatly benefit from the peace process, the Committee is concerned that during the transition to peace and the reconstruction process, children who have been affected by the conflict remain a particularly vulnerable group.

272. The Committee recommends that the State party implement the plan of action for the

PRIVACY - RIGHT TO

respect of the rights of children during the reconstruction process (2003). In particular, the Committee recommends that the State party:

...

(b) Develop, in collaboration with NGOs [non-governmental organizations] and international organizations, a comprehensive system of psychosocial support and assistance for children affected by the conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees and landmine survivors, which also ensures their privacy;

...

- Syrian Arab Republic, CRC, CRC/C/132 (2003) 116 at paras. 560 and 561.

560. The Committee is concerned that the reference in the report to information contained in the initial report indicates that very little or no progress has taken place with respect to the implementation of articles 13 to 17 of the Convention on these matters.

561. The Committee recommends that the State party actively promote the implementation of these rights by, among other things, making children more aware of these rights and by facilitating their active use in daily practice...

- Canada, CRC, CRC/C/133 (2003) 14 at paras. 106 and 107.

106. The Committee is encouraged by the enactment of new legislation in April 2003. The Committee welcomes crime prevention initiatives and alternatives to judicial procedures. However, the Committee is concerned at the expanded use of adult sentences for children as young as 14; that the number of youths in custody is among the highest in the industrialized world; that keeping juvenile and adult offenders together in detention facilities continues to be legal; that public access to juvenile records is permitted and that the identity of young offenders can be made public...

107. ...[T]he Committee urges the State party:

...

(c) To ensure that the privacy of all children in conflict with the law is fully protected in line with article 40, paragraph 2 (b) (vii) of the Convention;

...

- New Zealand, CRC, CRC/C/133 (2003) 27 at paras. 139, 140, 155 and 156.

139. The Committee shares the State party's concern about the prevalence of child abuse,

PRIVACY - RIGHT TO

and notes with regret that services aimed at preventing abuse and providing assistance with recovery do not have sufficient resources and are insufficiently coordinated.

140. The Committee recommends that the State party:

(a) Expand services and programmes aimed at assisting victims of abuse, and ensure that they are provided in a child-sensitive manner which respects the privacy of the victim;

...

155. ...The Committee is...concerned that the policy on exclusions, as well as increasing hidden costs of education are limiting access to education, particularly for Maori children, pregnant girls, children with special educational needs, lower-income families, non-citizens and new immigrants.

156. The Committee recommends that the State party:

...

(d) Take all necessary measures, including the provision of quality counselling programmes in schools, to address behavioural problems of students while respecting their right to privacy.

- Pakistan, CRC, CRC/C/133 (2003) 37 at para. 207.

207. The Committee recommends that the State party:

...

(b) Properly investigate cases of violence, through a child-sensitive judicial procedure, notably by giving appropriate weight to children's views in legal proceedings, and apply sanctions against perpetrators, with due regard given to guaranteeing the right to privacy of the child;

...

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 61, 62, 101 and 103.

61. The Committee is concerned at the high number of child victims of violence, abuse and neglect, including sexual abuse, in schools, in public places, in detention centres and in the family.

62. The Committee recommends that the State party:

(a) Expand current efforts to address the problem of child abuse and neglect, including sexual abuse, and ensure that there is a national system for receiving, monitoring and investigating complaints and for prosecuting cases when necessary, in a manner which is

PRIVACY - RIGHT TO

child sensitive and ensures the victims' privacy;

...

101. The Committee...is concerned that existing legislation does not provide effective protection (e.g. the age limit for sexual consent of 12 years is too low) and that child victims of sexual exploitation often do not receive adequate protection and/or recovery assistance...

...

103. The Committee recommends that the State party:

...

(b) Train law enforcement officials, social workers and prosecutors on how to receive, monitor and investigate complaints and prosecute perpetrators in a child-sensitive manner that respects the privacy of the victim;

...

- Japan, CRC, CRC/C/137 (2004) 116 at paras. 635 and 636.

635. The Committee is concerned that children's right to privacy is not fully respected, in particular, with regard to the searching of a child's belongings, and the fact that staff in institutions may interfere with a child's personal correspondence.

636. The Committee recommends that the State party:

(a) Ensure the full implementation of a child's right to privacy, including with respect to personal correspondence and searching of personal effects;

(b) Amend the Minimum Standards for Child Welfare Institutions so as to bring them into conformity with article 16 of the Convention.

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 200 and 201.

200. The Committee joins the State party in its concern about violations of the right to privacy of children by the media...

201. The Committee recommends that the State party take the necessary measures to ensure that the media fully respect the right to privacy of children...

- Angola, CRC, CRC/C/143 (2004) 78 at paras. 405 and 406.

405. The Committee expresses its concern at reports of the lack of respect for the privacy of children in the media and at the very little information provided by the State party on the

PRIVACY - RIGHT TO

de facto implementation of articles 13 to 17 of the Convention, including, *inter alia*, freedom of expression in schools.

406. The Committee recommends that the State party take the necessary measures to ensure respect for the child's right to privacy, particularly by the media, and to ensure that children are allowed to express their thoughts and opinions...

- Austria, CRC, CRC/C/146 (2005) 47 at paras. 255 and 256.

255. The Committee is concerned at the information from children and adolescents that their right to privacy, for example, with regard to personal correspondence, is not fully respected in everyday life.

256. The Committee recommends that the State party take the necessary measures, such as awareness-raising and educational campaigns, to improve the understanding of and respect for the child's right to privacy among parents and other professionals working for and with children.

- Philippines, CRC, CRC/C/150 (2005) 24 at paras. 141 and 142.

141. The Committee...is deeply concerned at a number of reported cases of torture, inhuman and degrading treatment of children, particularly for children in detention. The Committee reiterates its previous recommendation on prohibiting and criminalizing torture by law and it is of the view that existing legislation does not provide children with an adequate level of protection against torture and ill-treatment.

142. As regards torture and other cruel, inhuman or degrading treatment or punishment, the Committee urges the State party to review its legislation in order to provide children with better protection against torture and ill-treatment in the home and in all public and private institutions and to criminalize torture by law. The Committee recommends that the State party investigate and prosecute all cases of torture and ill-treatment of children, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected...

- Bosnia and Herzegovina, CRC, CRC/C/150 (2005) 49 at paras. 236 and 237.

236. The Committee is concerned that children's right to privacy is not fully respected, in schools, media and other institutions.

237. The Committee recommends that the State party take all possible measures to

PRIVACY - RIGHT TO

guarantee the conditions for respecting the right to privacy for children.

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 326 and 327.

326. The Committee notes with concern that “the identity of child offenders, rape victims or children in difficult circumstances continues to be disclosed in the media” ([CRC/C/65/Add.30,] para. 124), which is a clear infringement of article 16 of the Convention.

327. The Committee urges the State party to establish mechanisms to ensure that all materials broadcast in Nepal respect the child’s right to privacy such as a code of conduct and/or self-regulation, and to ensure that appropriate human rights training is given to media professionals, paying particular attention to children’s rights to privacy.