

PROTECTION OF THE FAMILY - MARRIAGE

IV. CONCLUDING OBSERVATIONS

CERD

- United Kingdom of Great Britain and Northern Ireland, CERD, A/48/18 (1993) 73 at para. 417.

It is noted with concern that the primary purpose rule regarding marriage under the immigration regulations might entail discrimination in effect on grounds of ethnic origin.

- Zimbabwe, CERD, A/51/18 (1996) 20 at paras. 93 and 99.

Paragraph 93

The persisting existence of a dual legal system regulating, *inter alia*, the areas of marriage and inheritance, is a serious concern. This situation, in some cases, can lead to unequal treatment between Blacks and Whites.

Paragraph 99

The dual legal system regulating marriage and inheritance should be revised in an appropriate manner, and if necessary unified, to avoid potential areas of unequal treatment between the races.

- Tonga, CERD, A/55/18 (2000) 37 at para. 182.

Particular concern is expressed at section 10 (2) (c) of the Immigration Act of the Laws of Tonga, according to which the right to marriage between a Tongan and a non-Tongan is conditioned by the written consent of the Principal Immigration Officer. Such legislation might constitute a breach of article 5, paragraph (d) of the Convention.

- Zimbabwe, CERD, A/55/18 (2000) 38 at para. 199.

It is noted with dissatisfaction that the laws concerning citizenship give preference to non-national female spouses over non-national male spouses of nationals of Zimbabwe and that the children born to citizens of Zimbabwe overseas may not acquire citizenship. It is recommended that the State party review its citizenship laws to ensure non-discrimination.

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- Cyprus, CERD, A/56/18 (2001) 48 at paras. 263 and 264.

Paragraph 263

Satisfaction is expressed at the amendment of the 1967 Citizenship Law which eradicates discrimination in marriage to foreigners. Through this amendment, the right of an alien spouse to acquire the citizenship of the Cypriot spouse is now recognized for both spouses, as is the equal right of both spouses to transmit citizenship to their children.

Paragraph 264

It is noted with approval that a draft marriage law, allowing marriage between a Greek Orthodox Christian and a Muslim of Turkish origin, has been approved by the Council of Ministers and is before the House of Representatives for enactment.

- Egypt, CERD, A/56/18 (2001) 50 at para. 288.

Concern is expressed at the nationality law, which prevents an Egyptian mother married to a foreigner from passing on her nationality to her children. It is also of concern that children born to Egyptian mothers and foreign fathers are faced with discrimination in the field of education. The promise of the State party to revise the nationality law, which discriminates against children born to Egyptian women married to non-nationals, so as to bring it into line with the provisions of the Convention, is noted.

ICCPR

- Senegal, ICCPR, A/48/40 vol. I (1993) 23 at para. 105.

In regard to non-discrimination, concern is expressed over the Family Code and it is noted that its provisions are not compatible with the Covenant, particularly in regard to establishing the husband as the sole head of the household. In this regard, concern is expressed over the continued practice of polygamy in Senegal since, in actual practice, it is impossible for a man to treat his wives equally.

- Ireland, ICCPR, A/48/40 vol. I (1993) 119 at para. 608.

It is noted that existing laws do not provide for divorce. In that connection, it is noted that the continued non-recognition of divorce serves only to exacerbate problems associated with the *de facto* termination of marriage.

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- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at para. 324.

It is of concern that in a number of key areas children are not adequately protected under the terms of existing legislation. In particular, it is of concern that marriageable age is defined as the onset of puberty.

See also:

- Cyprus, ICCPR, A/53/40 vol. I (1998) 33 at para. 195.

- Yemen, ICCPR, A/50/40 vol. I (1995) 49 at para. 255.

It is noted with concern that the provisions of the Personal Status Act No. 20 of 1992, particularly articles 40 and 41, establish unequal obligations of wives and husbands where wives are relegated to an inferior position. It is of concern that the requirements of this Act, particularly that wives must obey their husbands' orders and may not leave their homes except in limited situations, contradict articles 3 and 23 of the Covenant. It is further regretted that the laws of Yemen contain no specific provisions for dealing with domestic violence.

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at para. 460.

It is noted that reforms are in place to raise the marriageable age for girls to 18. However, the current legislation permits the marriage of girls from the age of 12 and contains discriminatory provisions with regard to property between men and women, thus preventing women from fully enjoying the rights protected under articles 3, 23, paragraph 3 and 26 of the Covenant.

- Nigeria, ICCPR, A/51/40 vol. I (1996) 37 at paras. 291 and 296.

Paragraph 291

Concern is expressed over the situation of women in Nigeria, particularly as regards their low level of participation in public life and the continued application of marriage regimes which permit polygamy and do not fully respect the equal rights of women. The widespread practices of forced marriage and of genital mutilation of girls are of particular concern.

Paragraph 296

Effective measures should be taken to ensure the full and equal enjoyment by women of the rights and freedoms protected by the Covenant. Steps should be taken, in particular through education, to overcome certain traditions and customs, such as female genital mutilation and forced marriages

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which are incompatible with the equal rights of women.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at paras. 348 and 349.

Paragraph 348

Legal and *de facto* discrimination continue to be matters of concern. In this context, the Committee refers to articles 487 to 489 of the Criminal Code, which impose harsher sentences for conviction of adultery on women than on men, to nationality laws and to the law which may restrict the right to leave the country for spouses in the absence of the consent of their husband. These provisions are incompatible with articles 3 and 23 of the Covenant. Of equal concern is the compatibility of laws and regulations which do not allow Lebanese citizens to contract marriage other than in accordance with the laws and procedures of one of the recognized religious communities, and that these laws and procedures do not afford equality of rights to women.

Paragraph 349

The State party should review its laws, especially those governing the status of women, women's rights and obligations in marriage and civil obligations, make appropriate amendments to them and take appropriate action to ensure full legal and *de facto* equality for women in all aspects of society. Accessible and effective remedies should be available in respect of all forms of discrimination. In addition to the existing laws and procedures governing marriage, civil laws on marriage and divorce available to everyone should be introduced in Lebanon.

- France, ICCPR, A/52/40 vol. I (1997) 62 at para. 412.

It is of concern that the Civil Code establishes a different minimum age of marriage for girls (15) and for boys (18) and that it sets such a low age for girls. The minimum age of marriage for girls should be raised. The State party should also amend its Civil Code to allow mothers to make the declaration of birth of her child. Furthermore, all children born out of wedlock should be given the same succession rights as children born in wedlock.

- India, ICCPR, A/52/40 vol. I (1997) 67 at para. 432.

It is of concern that women in India have not been accorded equality in the enjoyment of their rights and freedoms in accordance with articles 2, paragraph 1, and articles 3 and 26 of the Covenant, nor have they been freed from discrimination. Women remain under-represented in public life and at the higher levels of the public service, and are subjected to personal laws which are based on religious norms and which do not accord equality in respect of marriage, divorce and inheritance rights. The enforcement of personal laws based on religion violates the right of women to equality before the law

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and non-discrimination. Efforts should be strengthened towards ensuring the enjoyment of rights by women without discrimination and personal laws should be enacted which are fully compatible with the Covenant.

- Senegal, ICCPR, A/53/40 vol. I (1998) 13 at para. 61.

It is regretted that certain traditional cultural attitudes with respect to women are not compatible with their dignity as human beings and continue to hamper the equal enjoyment of their rights embodied in the Covenant. The practice of polygamy, which is incompatible with articles 2(1), 3 and 26 of the Covenant, is of particular concern. The State party should launch a systematic campaign to promote popular awareness of persistent negative attitudes towards women and to protect them against all forms of discrimination. The State party should bring its legislation, including family and inheritance laws, into conformity with articles 2(1), 3, 6, 7, 23 and 26 of the Covenant.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 122.

Under customary arrangements a woman's consent to marriage is mediated by a guardian, and recourse has to be made to the courts to override any prohibition within the family on a woman's choice of a husband. Such restrictions, whether by practice or legislation, are incompatible with articles 3, 16, 23 and 26 of the Covenant. The State party should repeal all legal provisions hindering women's free choice of spouse, as well as all other rules differentiating between men's and women's rights to marry and within marriage. A legal provision on a minimum age for marriage should be adopted.

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at paras. 214 and 221.

Paragraph 214

The duality of the statutory law and customary law, which potentially leads to unequal treatment between individuals, particularly in the area of marriage and inheritance laws, is of concern. Where customary law contravenes the Covenant or the statutory law, the customary law continues to be upheld and applied. Continued practices, in violation of various provisions of the Covenant, including articles 3 and 24, such as *kuzvarita* (pledging of girls for economic gain), *kuripa ngozi* (appeasement to the spirits of a murdered person), *lobola* (bride price), female genital mutilation, early marriage, the statutory difference in the minimum age of girls and boys for marriage, and other practices which are incompatible with the Covenant (articles 3, 7, 23, 24 and others) should be prohibited by legislation. The Government is urged to adopt adequate measures to prevent and eliminate prevailing social attitudes and cultural and religious practices hampering the realization of human rights by women.

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Paragraph 221

The amendment to the Constitution, the effect of which is to deprive both women and men of the right to have their spouses registered as citizens, who as a consequence may not be allowed to reside in or enter the territory of Zimbabwe, is incompatible with articles 17 and 23 of the Covenant. Steps should therefore be taken to bring the law into compliance with the Covenant.

- Israel, ICCPR, A/53/40 vol. I (1998) 45 at paras. 322, 323 and 325.

Paragraph 322

Authorities appear to be placing obstacles in the way of family reunion in the case of marriages between an Israeli citizen and a non-citizen who is not Jewish (and therefore not entitled to enter under the Law of Return). These obstacles, which include long waiting periods for entry permits, a "probation" period of over five years' residence to establish that the marriage is genuine and a further waiting period for citizenship, are applied even more rigorously in the case of Arab citizens, particularly those who marry persons resident in the occupied territories. Such obstacles are incompatible with articles 17 and 23. The Government should reconsider its policies with a view to facilitating family reunion of all citizens and permanent residents.

Paragraph 323

Arab women citizens of Israel have in some cases been required to relinquish their citizenship should they marry a Palestinian and apply for residence in the occupied territories. The Committee welcomes the Israeli Government's response that this policy no longer applies and recommends that those already affected be made fully aware of the relevant legal provisions and that their status be restored.

Paragraph 325

The application of religious law to determine matters of personal status, including marriage and divorce, and the absence of provision for civil marriage effectively deny some persons the right to marry in Israel, and result in inequality between men and women. That the minimum age of marriage for girls, fixed by law at 17, may be reduced by the religious courts, and that no minimum age is fixed for men, is also of concern. Early implementation of measures currently under consideration to facilitate civil marriages and civil burial for those who do not belong to a religion is urged. International standards should be taken into account for the age of majority in its current review of the minimum marriageable age for men and women.

- Algeria, ICCPR, A/53/40 vol. I (1998) 52 at para. 361.

The Family Code still contains important areas of inequality: a woman's consent to her first marriage is generally mediated by a male guardian, and this guardian can deny the woman her choice of a husband; the husband is the head of the family and polygamous marriage is possible; and it precludes

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a woman from marrying a non-Muslim while the same restriction does not apply to a man. This legislation should be brought into conformity with all the rights to which women are entitled under articles 3, 16, 23 and 26 of the Covenant.

- United Republic of Tanzania, ICCPR, A/53/40 vol. I (1998) 57 at paras. 396 and 397.

Paragraph 396

The State party should put an end to the application of personal laws which discriminate against women with respect to marriage, divorce, land and inheritance.

Paragraph 397

The Law of Marriage Act discriminates against women with regard to the minimum age for marriage. The Penal Code allows any person of African or Asiatic descent to marry, or permit the marriage of a girl under the age of 12, provided that there is no intention to consummate the marriage until she attains that age. These discriminatory features should be eliminated from the law.

- Belgium, ICCPR, A/54/40 vol. I (1999) 26 at para. 94.

Provisions relating to fake marriages and to the expulsion of aliens may give insufficient protection to the right to marry and family life as recognized in articles 17 and 23 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. Polygamy may still be practised under certain conditions. The law still does not provide adequate protection to women in respect of domestic violence and rape. The State party should intensify its efforts to guarantee the full enjoyment by men and women of all their human rights.

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at paras. 147 and 158.

Paragraph 147

The abolition of restrictions on dismissal on the grounds of marriage, pregnancy or childbirth is welcomed.

Paragraph 158

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Discriminatory laws against women still remain in the domestic legal order, such as the prohibition on women remarrying within six months following the date of the dissolution or annulment of their marriage and the different age of marriage for men and women. All legal provisions that discriminate against women are incompatible with articles 2, 3 and 26 of the Covenant and should be repealed.

- Chile, ICCPR, A/54/40 vol. I (1999) 44 at paras. 212, 213, and 217.

Paragraph 212

All legal provisions that discriminate between men and women in marriage must be abolished. Legal reforms under which married couples may opt out of discriminatory provisions do not abolish the discrimination in the primary legal arrangements, which may only be changed with the consent of the husband.

Paragraph 213

Lack of divorce may amount to a violation of article 23(2), as it leaves married women permanently subject to discriminatory property laws, even when a marriage has broken down irretrievably.

Paragraph 217

The minimum age for marriage, 12 years for girls and 14 years for boys, raises issues of compliance by the State party with its duty under article 24, paragraph 1, to offer protection to minors. Furthermore, marriage at such a young age would generally mean that the persons involved do not have the mental maturity to ensure that the marriage is entered into with free and full consent, as required under article 23, paragraph 3, of the Covenant. Therefore, the law should be amended so as to introduce a uniform minimum age for marriage of males and females, which will ensure the maturity required in order for the marriage to comply with the requirements of article 23, paragraph 3, of the Covenant.

- Cambodia, ICCPR, A/54/40 vol. I (1999) 57 at para. 309.

It is of concern that parents decide upon marriage, that children are forced into marriage, that rape in marriage is not an offence and that the authorities do not provide support to women who complain of domestic violence. Steps should be taken to ensure respect for laws prohibiting marriage without full and free consent, and measures should be introduced to enable women to seek effective protection of the law in case of domestic violence.

- Mexico, ICCPR, A/54/40 vol. I (1999) 61 at para. 330.

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Measures to ensure equality of opportunity for women, their full participation in public life in conditions of equality and the removal of all remaining discriminatory provisions in regard to marriage, divorce and remarriage should be approved.

- Morocco, ICCPR, A/55/40 vol. I (2000) 24 at paras. 98 and 99.

Paragraph 98

The extent of discrimination against Moroccan women in education, in employment, in public life and in criminal and civil laws, including laws dealing with inheritance, marriage, divorce and family relations, polygamy, repudiation of marriage, grounds for divorce, age of marriage and restrictions on marriage by Muslim women to non-Muslims, is of deep concern. The constitutional guarantees of women's equality that extend only to political rights are noted with concern.

Paragraph 99

Efforts should be intensified to overcome illiteracy, lack of education and all forms of discrimination against women, to implement fully the guarantee of equality contained in the Covenant (and in particular articles 2, paragraph 1, and articles 3, 23, 25 and 26) and to ensure the equal enjoyment by women of all rights and freedoms.

- Cameroon, ICCPR, A/55/40 vol. I (2000) 36 at paras. 191-194.

Paragraph 191

The duality of statutory law and customary law, which sometimes results in unequal treatment between men and women, particularly in the area of marriage and inheritance laws, is of concern. It is also of concern that where spouses do not agree, customary law incompatible with the Covenant is often applied.

Paragraph 192

Legislation that ensures that the laws applied will in all cases be compatible with the Covenant should be adopted. Law that gives effect to Covenant rights may fulfil an educational function. Educational campaigns should also be included in those areas in which customary practices lead to discrimination against women.

Paragraph 193

The continuing existence of polygamy, and the different ages for marriage between boys and girls are matters of concern.

Paragraph 194

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The State party should ensure that these matters are brought into conformity with the Covenant.

- Congo, ICCPR, A/55/40 vol. I (2000) 43 at para. 274.

Polygamy should be abolished and the educational measures required to prevent it should be implemented.

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 458 and 459.

Paragraph 458

Discrimination against women limits the enjoyment by women of their rights under the Covenant. In particular, pursuant to the Act on Personal Status, women cannot freely marry before they are 25 years of age, except with the approval of a guardian, who is usually the father or a judge, women's right to marry non-Kuwaiti citizens is restricted, and the age of marriage for men and women is different (17 for men, 15 for women). That polygamy is still practised in Kuwait, that men and women who commit adultery are not treated equally, and that toleration of so-called "crimes of honour" adds to the existing inequality between the sexes, is of concern.

Paragraph 459

Kuwait must grant women effective equality in law and practice and ensure their right to non-discrimination as stipulated in article 26 of the Covenant. Polygamy should be prohibited by law.

- Gabon, ICCPR, A/56/40 vol. I (2001) 41 at para. 75(9).

There are customs and traditions in the State party, having a bearing on, among other things, equality between men and women, that may hamper the full implementation of some provisions of the Covenant. In particular, the fact that polygamy is still practised in Gabon is deplored and reference is made to general comment No. 28, which states that polygamy is incompatible with equality of treatment with regard to the right to marry. "Polygamy violates the dignity of women. It is an inadmissible discrimination against women" (CCPR/C/21/Rev.1/Add.10, para. 24). Also, a number of legislative provisions in Gabon are not compatible with the Covenant, including article 252 of the Civil Code requiring a woman to be obedient to her husband. Lastly, in the event of her husband's death, a woman inherits only the usufruct of a quarter of the property left by her husband, and only after her children. The State party must review its legislation and practice in order to ensure that women have the same rights as men, including rights of ownership and inheritance. It must take specific action to increase the involvement of women in political, economic and social life and ensure that there is no discrimination based on customary law in matters such as marriage, divorce and inheritance. Polygamy must be abolished and article 252 of the Civil Code repealed.

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- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at paras. 77(18) and 77(22).

Paragraph 77(18)

The minimum marriageable age, 14 for girls and 16 for boys, and the fact that such age may be lowered without any limits for girls in case of pregnancy or childbirth, raises problems with respect to the fulfilment by the State party of its obligation under article 24, paragraph 1, to protect minors. Marriage at such an early age does not appear to be compatible with article 23 of the Covenant, which requires the free and full consent of the intending spouses.

Paragraph 77(22)

With a view to complying with its obligations arising from articles 2, 3 and 26 of the Covenant, the State party is urged to amend all laws that still discriminate against women, including those relating to adultery and the ban on marriage for 10 months following the dissolution of a previous marriage.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at paras. 81(18) and 81(20).

Paragraph 81(18)

Notwithstanding the provisions of article 25 of the Constitution, problems remain with respect to gender equality in the Syrian Arab Republic. The Personal Status Act No. 34 of 1975 contains provisions which are not compatible with articles 2, paragraph 1, 3 and 26 of the Covenant. In particular, the provisions on the rights and obligations of spouses during marriage and upon its dissolution include discriminatory elements. The State party is called upon to take all necessary measures to make its legislation consistent with articles 2, paragraph 1, 3 and 26 of the Covenant.

Paragraph 81(20)

The minimum marriageable age is 17 years for girls and 18 for boys. The fact that the minimum age can be reduced by a judge to 15 years for boys and 13 for girls with the father's consent poses a problem with regard to the State party's obligation, under article 24, paragraph 1, to protect minors. Marriage at such a young age hardly seems compatible with article 23 of the Covenant, whereby no marriage shall be entered into without the free and full consent of the intending spouses. Legislation should be amended to bring it into line with the provisions of articles 3, 23 and 24 of the Covenant.

- Monaco, ICCPR, A/56/40 vol. I (2001) 89 at para. 84(12).

It is of concern that Monegasque legislation discriminates between boys and girls in that the legal age for marriage is 15 years for girls, but 18 years for boys (articles 23 and 26). Legislation should be amended to ensure that girls and boys are treated equally by making the legal age of marriage 18 years, regardless of sex.

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- Guatemala, ICCPR, A/56/40 vol. I (2001) 93 at para. 85(24).

Concern is expressed about the continued existence of a legal provision exempting a rapist from any penalty if he marries the victim and about the continued requirement in the legislation that a woman must be “honest” for that offence to be held to have been committed. This legislation, which is incompatible with articles 3, 23, 26 and 2(3) of the Covenant, should be repealed immediately.

ICESCR

- The Gambia, ICESCR, E/1995/22 (1994) 42 at para. 200.

With regard to article 10 of the Covenant, profound concern is expressed over the situation of those women in the Gambia whose marriages are arranged for them by parents or guardians without their full and free consent. It is noted that polygamy is allowed in the Gambia. The legal status of women should not be prejudiced.

- Philippines, ICESCR, E/1996/22 (1995) 30 at para. 111.

With regard to the issue of divorce, it is noted that different legal provisions apply in the predominantly Muslim provinces where the Shari'a is given effect and that in other parts of the State party divorce is legally forbidden. Concern is expressed about the discriminatory aspects of this approach and it is noted that civil marriage and divorce should be regulated so as to leave to the individuals concerned the duties that religion imposes. The prohibition of divorce often results in the breakdown of families, with highly detrimental consequences, particularly for abandoned women and children and also for the children of subsequent cohabitations, who must, by definition, be born out of wedlock.

- Suriname, ICESCR, E/1996/22 (1995) 37 at paras. 159 and 164.

Paragraph 159

Inconsistency is noted in the fact that, while young persons attain majority at the age of 21, men may marry from the age of 15 and women from the age of 13. It is noted with concern that the difference in the marriageable ages for men and women does not appear to conform with the provisions of articles 2 and 10 of the Covenant, or to be compatible with articles 2 and 3 of the Convention on the Rights of the Child. Deep concern is expressed about the possibility that a marriage partner may be appointed without his or her consent, which in general appears to affect women disadvantageously more often than men.

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Paragraph 164

The Government should initiate programmes to educate the public so that traditional customs and attitudes that are discriminatory towards women are gradually modified and abolished. The Government is urged to ensure that all legislation is applied in a non-discriminatory manner and that laws which clearly discriminate against women are abolished. In particular, the laws permitting persons to marry without the acknowledgement or consent of the partner should be abolished, the problem of violence against women should be legally addressed, and general legislation regarding maternal benefits should be enacted and enforced.

- 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. The violence exercised against women in the family, and outside the family by fanatical groups, is of profound concern. A husband's absolute right to keep the conjugal home in the case of divorce is a further subject of concern.

- Dominican Republic, ICESCR, E/1997/22 (1996) 44 at para. 233.

It is of concern that common-law marriages are not legally recognized, although 60 per cent of all marriages are of this nature, the consequence being that, in cases of separation, abandonment or the death of the male breadwinner of the family, a woman frequently loses everything and finds it difficult to acquire an identity card or collateral, without which she cannot obtain agricultural credit, housing or employment.

- Zimbabwe, ICESCR, E/1998/22 (1997) 24 at para. 73.

Despite the Government's stated policy of *de jure* equality of men and women, the situation of women in the State party, particularly in rural districts, is viewed as very unsatisfactory. Concern is expressed about *de facto* discrimination against women, attributable to traditional practices such as arranged marriages of children and forced marriages of widows with a late husband's brother. Such practices are incompatible with article 3 of the Covenant.

- Dominican Republic, ICESCR, E/1998/22 (1997) 43 at para. 214.

Concern is expressed that women do not fully enjoy their economic, social and cultural rights under the Covenant with particular reference to the persistence of a traditional male-dominated society

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detrimental to gender equality, to the lack of protection afforded to women workers who are victims of discrimination in employment or arbitrary dismissal owing to pregnancy, to the lack of family-planning services, to the high maternal mortality rate, to unequal pay between women and men, and to the absence of legal recognition of *de facto* marriages.

- Sri Lanka, ICESCR, E/1999/22 (1998) 22 at paras. 73 and 88.

Paragraph 73

The existence of disparities between statutory law and customary law is noted with concern. The age for marriage in statutory law is 18 years but girls as young as 12 years of age are able to marry under customary law, as long as the parents consent. The practice of early marriage has negative impacts on the right to health, right to education and the right to work, particularly of the girl child. In statutory law, there is equality of inheritance among siblings while customary law discriminates against married women who, unlike married men, may not inherit family property. In allowing customary law to prevail over statutory law in this regard, the Government is not complying with its obligation to protect the rights of women against discrimination.

Paragraph 88

The minimum legal age for marriage of 18 years, as well as inheritance laws affecting women should be enforced, thereby superseding discriminatory customs and traditions.

- Nigeria, ICESCR, E/1999/22 (1998) 27 at para. 116.

It is noted with concern that polygamy, a practice which is very often incompatible with the economic, social and cultural rights of women, is widespread in Nigeria.

- Canada, ICESCR, E/1999/22 (1998) 63 at para. 404.

It is noted that aboriginal women living on reserves do not enjoy the same right as women living off reserves to an equal share of matrimonial property at the time of marriage breakdown.

- Cameroon, ICESCR, E/2000/22 (1999) 56 at paras. 328 and 347.

Paragraph 328

The lack of progress made by the Government in combatting the continuing discriminatory practices

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against women and girls, which impede the enjoyment of their rights under the Covenant, is deplored. Such practices include polygamy, the forced early marriage of girls and discriminatory laws which prevent women from inheriting land.

Paragraph 347

The Government is urged to prohibit customary practices which violate the rights of women and to take active measures to combat such practices and beliefs by all means, including educational programmes. Government action should focus, in particular, on the elimination of the practices of polygamy, forced marriages and female genital mutilation, and the bias in favour of the education of boys.

- Egypt, ICESCR, E/2001/22 (2000) 38 at paras. 159 and 175.

Paragraph 159

Although the efforts by the State party in promoting equality of men and women through a new divorce law are welcomed, it is noted with concern that the new law contains provisions that may disadvantage women. In addition, the Nationality Law does not grant equal citizenship status to children of Egyptian women married to non-nationals.

Paragraph 175

The Government should review the provisions of the new divorce law with a view to removing all provisions that discriminate against women and place them at a disadvantage. It is also recommended that the Nationality Law, which discriminates against children born to Egyptian women married to non-nationals, be revised.

- Sudan, ICESCR, E/2001/22 (2000) 57 at para. 307.

Deep concern is expressed over the considerable divergence in the Sudan between the Constitutional provisions guaranteeing rights and freedoms, on the one hand, and some of the legal provisions, as well as traditional customs and practice, on the other hand. A flagrant example is the societal and legal status of women in general, the low degree of women's participation in public life and the provisions in criminal and family law regarding equality in marital relations.

- Kyrgyzstan, ICESCR, E/2001/22 (2000) 62 at paras. 344, 351 and 358.

Paragraph 344

The reassertion of traditional attitudes towards women in Kyrgyz society is disturbing. It is noted

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with concern that although polygamy is illegal, it is nonetheless practised in some regions. Deep concern is also expressed about the re-emergence of the old tradition of bride kidnapping.

Paragraph 351

The situation of girls dropping out of school is alarming, as their access to education is being curtailed by a revival of the tradition of early marriage, and a decrease in the prestige of having a formal education.

Paragraph 358

It is recommended that the State party actively implement the law with regard to the practice of polygamy and bride kidnapping.

- Senegal, ICESCR, E/2002/22 (2001) 61 at paras. 341 and 365.

Paragraph 341

Concern is expressed about the *de jure* and *de facto* inequality that exists between men and women in society. For example, article 152 of the Family Code discriminates against women, notably in the fields of taxation, allocation of seeds and family allowances. There is particular concern about the lack of progress made by the State party in eradicating the enduring discriminatory practices against women and girls. Such practices include polygamy, restricted access to land, property, housing and credit facilities, and the inability to inherit land.

Paragraph 365

The State party is urged to enact or enforce legislation prohibiting customary practices, such as polygamy, female genital mutilation, restricted access by women to land, property, housing and credit facilities and the inability to inherit land, and to take measures to combat such practices by all means, including national education programmes.

- Syrian Arab Republic, ICESCR, E/2002/22 (2001) 67 at para. 404.

Concern is expressed about the persisting discrimination in the political, social and economic spheres of life against women in society, which is particularly reflected in limited participation by women in the political and economic decision-making process, a low legal age of marriage for girls, more severe punishment of women for adultery and "honour crimes", and unequal treatment insofar as personal property and social security laws are concerned. It is regretted that the State party has not adopted any significant legislative or administrative measures to eliminate this discrimination, nor ratified the Convention on the Elimination of All Forms of Discrimination against Women.

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- Nepal, ICESCR, E/2002/22 (2001) 83 at paras. 526, 533, 534, 558 and 559.

Paragraph 526

It is noted that measures have been adopted to abolish and punish the practices of polygamy, dowry, *deuki* (a tradition of dedicating girls to a god or goddess; the girls become "temple prostitutes") and prostitution among the Badi caste.

Paragraph 533

The legal inequalities between women and men in the field of inheritance, the regime of shared assets in marriage, divorce, child custody in case of divorce and remarriage, and the conferring of nationality to children on equal terms are noted with concern. Concern is also expressed about the *de facto* inequality that exists between men and women in the Nepalese society, despite legislative guarantees of equality.

Paragraph 534

The continuation of polygamy and the practices of dowry, *deuki* and prostitution among the Badi caste, particularly in rural areas, are regretted.

Paragraph 558

Existing legislation on gender equality should be implemented more vigorously, and a gender equality perspective should be incorporated in legislation, with a view to ensuring greater equality of men and women, especially in the areas of family, employment, labour conditions and representation in public services and administration.

Paragraph 559

The State party is urged to enact or enforce legislation prohibiting customary practices, such as polygamy, dowry, *deuki* and prostitution among the Badi caste, and restricted ownership by women of land and family property, which violate the rights of women and girl children and to take measures to combat such practices by all means, including national educational programmes.

CEDAW

- Madagascar, CEDAW, A/49/38 (1994) 45 at para. 240.

The two unequal laws on adultery should be abolished. Those laws are very discriminatory.

- Zambia, CEDAW, A/49/38 (1994) 63 at paras. 361 and 364.

Paragraph 361

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The persistence of traditional sex roles, which are deeply embedded in the cultural life of Zambians and which generally seem to impede equality, is of concern. Great concern is also expressed regarding the violation of women's rights in general, particularly the rights of women under customary marriage laws.

Paragraph 364

Customary marriage law should be reformed so that customary marriages are registered, in order to give women married under that law equal rights and benefits with men.

- Chile, CEDAW, A/50/38 (1995) 35 at para. 155.

The State party should introduce legislation opening up the rights to legal divorce.

- Iceland, CEDAW, A/51/38 (1996) 12 at para. 100.

Information programmes among migrant women, in particular those that pertain to the rights of women in Iceland should be intensified. In order to ensure the protection of migrant women, the Government should continue providing adequate health and counselling services and the monitoring of the increasing number of intermarriages between Icelandic men and migrant women.

- Ethiopia, CEDAW, A/51/38 (1996) 19 at para. 149.

Early marriage is a great concern.

- Venezuela, CEDAW, A/52/38/Rev.1 part I (1997) 30 at para. 239.

Concern is expressed over the fact that a Venezuelan man has the right to confer his nationality on his wife upon marriage, but a Venezuelan woman does not have the right to confer her citizenship on her husband.

- Namibia, CEDAW, A/52/38/Rev.1 part II (1997) 82 at paras. 110 and 124-125.

Paragraph 110

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The prevalence of polygamous marriages and the non-registration of customary marriages are matters of concern.

Paragraph 124

The issue of polygamous marriages should be addressed. The Department of Women Affairs should introduce an intensive programme to discourage polygamy.

Paragraph 125

The registration of all customary marriages, so as to ensure that women can enjoy all rights that accrue as a result of marriage, should be ensured as soon as it is feasible.

- Israel, CEDAW, A/52/38/Rev.1 part II (1997) 87 at paras. 163, 173 and 178.

Paragraph 163

The remaining instances of polygamy, forced marriage and genital mutilation, as well as "honour killings" are of concern.

Paragraph 173

In order to guarantee the same rights in marriage and family relations in Israel, the Government should complete the secularization of the relevant legislation and place it under the jurisdiction of the civil courts.

Paragraph 178

Necessary steps should be taken to eliminate practices which cannot be justified on any grounds, such as forced marriages, female genital mutilation, honour killings and polygamy.

- Luxembourg, CEDAW, A/52/38/Rev.1 part II (1997) 92 at paras. 212 and 223.

Paragraph 212

The restrictions on women in relation to remarriage after divorce are of concern.

Paragraph 223

Legislative steps should be taken to remove outdated laws restricting women's right to remarry after divorce, as well as those that classify children as "legitimate/natural" or "illegitimate."

- Bangladesh, CEDAW, A/52/38/Rev.1 part II (1997) 117 at paras. 433 and 458.

Paragraph 433

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The Government's remaining reservations to articles 2 and 16, paragraph 1 (a) are of concern. Article 2 is a fundamental and core provision of the Convention, while article 16 is critical to the full enjoyment by women of their rights.

Paragraph 458

Births and marriages should be systematically registered so that laws prohibiting child marriage and polygamy might be rigorously enforced.

- Czech Republic, CEDAW, A/53/38/Rev.1 part I (1998) 16 at para. 198.

The very high divorce rate that prevails in the country, its causes, as well as the legal status of protection, if any, accorded to women in *de facto* unions are of special concern.

- Indonesia, CEDAW, A/53/38/Rev.1 part I (1998) 24 at paras. 284 and 307-308.

Paragraph 284

Concern is expressed at the existence of laws that are not in accordance with the provisions of the Convention. Discrimination against women exists in laws regarding family and marriage, including polygamy; age for marriage; divorce; and the requirement that a wife obtain her husband's consent for a passport.

Paragraph 307

Immediate steps should be taken to eradicate the practice of polygamy and to change the other discriminatory laws identified by the Committee in paragraph 284.

Paragraph 308

Steps should be taken to ensure that women in Indonesia have the right to free choice of spouse.

- South Africa, CEDAW, A/53/38/Rev.1 part II (1998) 58 at para. 118.

The adoption of legislation should be completed as a matter of priority and its effective implementation should be ensured in order that women's *de jure* and *de facto* equality will be guaranteed. A uniform family code in conformity with the Convention should be prepared in which unequal inheritance rights, land rights and polygamy are addressed, with the aim of abolishing them.

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

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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, and which prevent women from travelling without the permission of a male relative.

- New Zealand, CEDAW, A/53/38/Rev.1 part II (1998) 68 at paras. 277 and 278.

Paragraph 277

Concern is expressed over the Bills introduced in Parliament which differentiate between the rights of married women in the division of property upon the death of a husband or following divorce, and the rights of women upon separation from a *de facto* partner. Concern is also expressed over the Bill that does not take into consideration future earnings of a husband with regard to property division in divorce settlements.

Paragraph 278

Consideration should be given to bringing the content of the De Facto Relationships (Property) Bill in line with the Matrimonial Property Amendment Bill, especially since *de facto* relationships are more common among the M ori population and are growing among the population in general.

- Republic of Korea, CEDAW, A/53/38/Rev.1 part II (1998) 76 at para. 382.

The differential minimum age of marriage of women and men is of concern.

- Algeria, CEDAW, A/54/38/Rev.1 part I (1999) 12 at paras. 75, 81 and 91.

Paragraph 75

The persistence of cultural stereotypes and patriarchal values, as well as polygamy, which violate women's rights, is a concern.

Paragraph 81

The situation of wives of disappeared persons who can neither legally prove that their husbands are dead, owing to the length and difficulty of the procedure, nor enjoy their status as married women is of concern. This results in human and material injuries to these women and their children.

Paragraph 91

The fact that the Family Code still contains many discriminatory provisions which deny Algerian women their basic rights, such as free consent to marriage, equal rights to divorce, sharing of family and child-rearing responsibilities, shared child custody rights with fathers, the right to dignity and self-respect and, above all, the elimination of polygamy is a serious concern.

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- Kyrgyzstan, CEDAW, A/54/38/Rev.1 part I (1999) 15 at paras. 138 and 139.

Paragraph 138

Concern is expressed over the fact that although polygamy is illegal, it is nonetheless practiced in some regions without legal or social sanctions.

Paragraph 139

Effective measures should be taken with respect to the implementation of existing laws, the improvement of women's economic situation and the implementation of public education programmes to change traditional values supportive of polygamy in order to eradicate this practice altogether.

- Belize, CEDAW, A/54/38/Rev.1 part II (1999) 49 at para. 63.

The differential treatment of married, common-law, and "visiting" spouses under common law with regard to the distribution of matrimonial property following the break-up of the relationship is a concern.

- Nepal, CEDAW, A/54/38/Rev.1 part II (1999) 57 at para. 139.

The Government is urged to amend, as a matter of priority, discriminatory laws on property and inheritance, the laws on marriage, nationality and birth registration, the Bonus Act, and discriminatory criminal laws, including the new law on abortion.

- Chile, CEDAW, A/54/38/Rev.1 part II (1999) 64 at para. 222.

The Government is urged to introduce and vigorously support legislation which permits divorce, allows women to remarry after divorce, and grants women and men the same rights to administer property during marriage and equal rights to property on divorce. Women should also be granted the right to initiate divorce on the same terms as men.

- India, CEDAW, A/55/38 part I (2000) 7 at para. 62.

A comprehensive and compulsory system of registration of births and marriages has not yet been established. Inability to prove those important events by documentation prevents effective

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implementation of laws that protect girls from sexual exploitation and trafficking, child labour and forced or early marriage. The failure to register marriages may also prejudice the inheritance rights of women.

- Myanmar, CEDAW, A/55/38 part I (2000) 12 at paras. 106 and 108.

Paragraph 106

That in Myanmar women have the same rights as men to acquire, administer and dispose of property and that a wife has the right to transfer half of the marital property into her name upon divorce is noted with satisfaction.

Paragraph 108

That the legal age for marriage is 20 years for both sexes is noted with satisfaction.

- Jordan, CEDAW, A/55/38 part I (2000) 16 at paras. 172-175.

Paragraph 172

It is of concern that Jordanian nationality law prevents a Jordanian woman from passing on her nationality to her children if her husband is not Jordanian. This is an anachronistic situation at a time when Jordan is making major strides in its economic and democratic development and when marriage between persons of different nationalities is increasingly common. That Jordanian law prohibits women from concluding contracts in their own name, from travelling alone and from choosing their place of residence, is also 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.

Paragraph 174

It is noted that a woman's right to choose a family name, a profession or occupation, rights upon divorce and rights and responsibilities as a parent are not recognized in the Personal Status Code. It is also noted with concern that Jordanian law recognizes the practice of polygamy.

Paragraph 175

The Personal Status Code should be amended to recognize women's rights to choice of family name, occupation, as well as their rights upon divorce and with regard to their responsibilities as parents. The Government is called upon to reconsider the law and policy on polygamy with a view to eliminating this practice in line with the Convention, the Constitution and evolving social relations

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in the country.

- Democratic Republic of the Congo, CEDAW, A/55/38 part I (2000) 21 at paras. 215 and 216.

Paragraph 215

Concern is expressed at the persistence of traditional customs and practices, which are in violation of women's fundamental rights, such as dowry, the levirate, polygamy, forced marriage and female genital mutilation.

Paragraph 216

Legislation should be enacted to prohibit such traditional practices. The Government should work with NGOs and the media to change attitudes through information and awareness-raising campaigns, the teaching of the Convention in schools and the translation of the Convention into local languages so as to accelerate women's enjoyment of their human rights.

- Burkina Faso, CEDAW, A/55/38 part I (2000) 25 at paras. 256, 281 and 282.

Paragraph 256

The State party is commended for having adopted new legal and institutional measures to implement the Convention and fulfil its commitments *vis-à-vis* the international community. It is noted with satisfaction that the Individual and Family Code restores to women their fundamental rights and establishes the principles of equal consent to marriage choice of residence of the spouses during the marriage and the right to succession for the surviving spouse. The Code also regulates the marriageable age and establishes monogamy as the legal form of marital union.

Paragraph 281

It is noted that the State party has taken measures in the Individual and Family Code to place restrictions on the practice of polygamy. However, the fact that the great majority of women are unaware of these rules remains a concern.

Paragraph 282

The Government should work towards the elimination of the practice of polygamy. The Government should ensure enforcement of the Individual and Family Code and protect the rights of women. The Government should embark on a comprehensive public effort, in cooperation with NGOs, directed at both women and men, to change existing attitudes regarding polygamy and particularly to educate women on their rights and how to avail themselves of these rights. It is also recommended that the Government take measures to protect the human rights of women who are already in polygamous unions.

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- Germany, CEDAW, A/55/38 part I (2000) 29 at paras. 313 and 314.

Paragraph 313

Concern is expressed at the persistence of stereotypical and traditional attitudes about the roles and responsibilities of women and men in private and in public life. That persistence is reflected in women's main responsibility for family and caring work, occupational segregation, men's extremely low participation in parental leave, at 1.5 per cent of those taking parental leave in 1997, and the taxation of married couples. It is of concern that measures aimed at the reconciliation of family and work entrench stereotypical expectations for women and men.

Paragraph 314

The State party should assess the current legal provisions on the taxation of married couples ("splitting") and its impact on the perpetuation of stereotypical expectations for married women.

- Luxembourg, CEDAW, A/55/38 part I (2000) 38 at paras. 406 and 407.

Paragraph 406

Concern is expressed over certain laws, for example, the waiting period of 300 days before a widow or divorced woman can remarry. It is of particular concern that the Government appears to lack the commitment to review and adapt this legislation to changing attitudes and developments in the European region.

Paragraph 407

The Government should provide the necessary leadership and develop a comprehensive legislative agenda to amend such laws.

- Cameroon, CEDAW, A/55/38 part II (2000) 53 at paras. 53 and 54.

Paragraph 53

The persistence of cultural practices and deep-rooted stereotypes relating to the roles and responsibilities of women and men in all areas of life, which affect their enjoyment of all human rights, is disturbing.

Paragraph 54

The Government is urged to review all aspects of this situation and to adopt legislation to prohibit discriminatory cultural practices, in particular those relating to female genital mutilation, levirate, inheritance, early and forced marriage and polygamy. The Government is also urged to carry out further public-awareness, information and training programmes targeting community leaders and the

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general public, so as to change ways of thinking and the stereotyped perceptions of the roles and responsibilities of women and men.

- Republic of Moldova, CEDAW, A/55/38 part II (2000) 56 at paras. 113 and 114.

Paragraph 113

Concern is expressed over the differential ages of marriage established in the Family Code for boys and girls and the legal recognition of marriages of girl children, which is not in conformity with article 16, paragraph 2, of the Convention.

Paragraph 114

Legislation on the marriage age for women and men should be brought into full conformity with the Convention, taking into consideration general recommendation 21.

- Iraq, CEDAW, A/55/38 part II (2000) 66 at paras. 186, 188, 191 and 192.

Paragraph 186

It is of concern that the State party explicitly ruled out the possibility of withdrawal of its reservations to article 2, subparagraphs (f) and (g), and articles 9 and 16. Further concern is expressed over the State party's justification of those reservations as being based on its desire to apply the provisions of the Convention in a manner consistent with Islamic *Sharia*. In that regard, the attention of the State Party is drawn to the Committee's statement on reservations (see A/53/38/Rev.1, part two, chap. I), and in particular its view that articles 2 and 16 are central to the object and purpose of the Convention, and that, in accordance with article 28, paragraph 2, reservations should be reviewed and modified or withdrawn.

Paragraph 188

The Government should review its reservations to article 2, subparagraphs (f) and (g), and articles 9 and 16, in the light of the Committee's statement on reservations, assess the justifications for those reservations and modify or withdraw them as soon as possible to ensure full implementation of the Convention.

Paragraph 191

Concern is expressed over the prevailing view that emphasizes women's stereotypical role in the family and in private life to the detriment of establishing equality of women in all spheres of life. The fact that insufficient attention is being given to modifying harmful traditional and cultural

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practices, such as polygamy, and stereotypical attitudes that perpetuate discrimination against women, is noted with concern.

Paragraph 192

The Government should work towards the elimination of the practice of polygamy, in light of general recommendation 21 on marriage and family relations. It should also ensure that gender-sensitive public education campaigns at all levels create a non-discriminatory environment.

- Cuba, CEDAW, A/55/38 part II (2000) 73 at paras. 267 and 268.

Paragraph 267

While the introduction of the option of divorce by consent constitutes a viable alternative to a court-supervised divorce, it may involve inherent risks of disadvantage for women.

Paragraph 268

The implementation of divorce by consent should be monitored carefully, and in particular any negative impact this option might have for women with regard to issues such as alimony payments, custody and maintenance of children and distribution of property.

- Romania, CEDAW, A/55/38 part II (2000) 77 at paras. 306, 307, 318 and 319.

Paragraph 306

The increase in violence against women is of concern. The absence of legislation criminalizing domestic violence, including marital rape, and the recognition of the defence of a so-called “reparatory marriage” in the Criminal Code, which eliminates criminal liability of a rapist if the rape victim consents to marry him, are of concern.

Paragraph 307

The Government is called upon to make violence against women in all its forms and in the light of general recommendation 19 on violence against women a crime adequately punishable by law. Legislation and measures to ensure that women victims of domestic violence have immediate means of redress and protection, are recommended. The Government is also called upon to expand its zero-tolerance campaign on violence against women so as to make such violence socially and morally unacceptable. Measures should also be taken to ensure that law enforcement officials, the judiciary and health-care providers are aware that violence against women, including domestic violence, constitutes an infringement of the human rights of women under the Convention that must be prosecuted with the seriousness and speed it deserves.

Paragraph 318

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Concern is expressed over the different age of marriage established in the Family Code for boys and girls, and the fact that marriages of girl children can be legalized in contravention of article 16 of the Convention. It is also of concern that despite the decrease in marriages and a growing incidence of cohabitation, the rights of women in cohabitation are not protected by the legal system.

Paragraph 319

Legislation on the marriage age for women and men should be brought into full conformity with the Convention, taking into consideration general recommendation 21. The State party should also consider how women's rights, including with regard to alimony and child custody, can be protected following dissolution of domestic partnerships.

- Burundi, CEDAW, A/56/38 part I (2001) 7 at para. 56.

Steps should be taken to bring discriminatory legislative provisions in the Code of the Person and the Family and the Penal Code into line with the Convention. The review of provisions that predicate differential ages of marriage for women (article 88 of the Code of the Person and the Family), indicate that the man is head of the household (article 122 of the Code of the Person and the Family) and establish discriminatory provisions with regard to adultery (article 3 of the Penal Code), is recommended.

- Maldives, CEDAW, A/56/38 part I (2001) 15 at paras. 136 and 139.

Paragraph 136

Early marriage and domestic responsibilities contribute to high dropout rates for girls. Minimum age of marriage laws and other programmes should be introduced to prevent early marriage, in line with the obligations of the Convention.

Paragraph 139

Family laws discriminate against women and the high divorce rates are of concern, as they have an adverse impact on women and children.

- Uzbekistan, CEDAW, A/56/38 part I (2001) 18 at paras. 187 and 188.

Paragraph 187

The high rates of suicide among women and the cases of polygamy are matters of concern.

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Paragraph 188

Structures aimed at addressing mental health problems faced by women should be established, and measures to eliminate polygamy and early marriage should be undertaken.

- Jamaica, CEDAW, A/56/38 part I (2001) 22 at paras. 213 and 214.

Paragraph 213

It is a matter of concern that Jamaica's passport law provides that a married woman may keep her maiden name on her passport only if she insists or for professional reasons and that in those cases, a note would be entered in her passport with the name of her husband and the fact of her marriage.

Paragraph 214

The passport law should be brought into line with article 16 (g) of the Convention.

- Egypt, CEDAW, A/56/38 part I (2001) 33 at paras. 326-331 and 352-355.

Paragraph 326

While the efforts of the National Council for Women to encourage the Government to withdraw its reservations to articles 2 and 9, paragraph 2, and article 16 of the Convention are appreciated, concern is expressed that these reservations have been retained.

Paragraph 327

The necessary steps for the withdrawal of reservations should be expedited and, in that regard, attention is drawn to the statement on reservations in the report on the nineteenth session and, in particular, the view that articles 2 and 16 are central to the object and purpose of the Convention and that, in accordance with article 28, paragraph 2, the reservations should be withdrawn.

Paragraph 328

That women who seek divorce by unilateral termination of their marriage contract under Law No. 1 of 2000 (khul) must in all cases forego their rights to financial provision, including the dower, is of concern.

Paragraph 329

A revision of Law No. 1 of 2000 should be considered in order to eliminate the financial discrimination against women.

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Paragraph 330

It is of concern that the Egyptian nationality law prevents an Egyptian woman from passing on her nationality to her children if her husband is not Egyptian, while Egyptian men married to non-Egyptians may do so. The hardship faced by the children of Egyptian women married to non-Egyptian men, including financial hardship with regard to education, is of particular concern. This limitation on the rights of women is inconsistent with the Convention.

Paragraph 331

The legislation governing nationality should be revised in order to make it consistent with the provisions of the Convention.

Paragraph 352

The high number of early marriages of girls, especially in rural areas, is of concern.

Paragraph 353

The law on the legal age of marriage should be amended to prevent early marriage, in line with the State party's obligations under the Convention.

Paragraph 354

The continued legal authorization of polygamy is of concern.

Paragraph 355

Measures should be taken to prevent the practice of polygamy in accordance with the provisions of the Convention and the Committee's general recommendation 21.

- Andorra, CEDAW, A/56/38 part II (2001) 49 at para. 47.

Concern is expressed at the existence of several discriminatory laws, including the provision of the Marriage Law that requires widowed or divorced women to wait 300 days before remarriage. Existing legislation, including the Marriage Law, should be reviewed to comply with the Convention.

- Guinea, CEDAW, A/56/38 part II (2001) 55 at paras. 122, 123, 125 and 134.

Paragraph 122

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It is of concern that despite prohibitions in statutory law, there is wide social acceptance and lack of sanctions for such practices as female genital mutilation, polygamy and forced marriage, including *levirate* and *sororate*, and discrimination with regard to child custody and inheritance. Concern is expressed that the Civil Code contains provisions in family law that discriminate against women and that reinforce discriminatory social practices. The Government's use of social practices and customs to justify the non-enforcement of the Civil Code is also of concern.

Paragraph 123

An action plan should be developed, including a public-awareness campaign targeted at both women and men, with the support of civil society and social partners, to eliminate the gap between statutory law and social customs and practices, especially with regard to family law. The State party should work with 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. The Government is called upon to ensure women's awareness of their rights and to explore and apply innovative methods to reach illiterate women.

Paragraph 125

Female and male spouses who marry foreigners should be treated equally in regulations governing nationality. The Government is urged to ensure that the concept of *jus sanguinis* is applied to ensure that children of mixed parentage born outside the country can acquire nationality through their Guinean mother.

Paragraph 134

The prevalence of violence against women and girls is of concern, including domestic violence, beating, repudiation, early and forced marriages and abuse of widows and menopausal women.

- Guyana, CEDAW, A/56/38 part II (2001) 60 at para. 157.

The Committee welcomes the constitutional reform process which led to the recognition of non-discrimination on the basis of sex, gender, marital status and pregnancy as a fundamental human right enshrined in the Constitution. It also welcomes the passage of Bill No. 6 of 2001, which provides for the establishment of constitutional commissions, including the Women and Gender Equality Commission, which will be responsible for ensuring that women are not discriminated against in any sector of society.

- The Netherlands, CEDAW, A/56/38 part II (2001) 63 at para. 207.

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There is concern about the lack of information on the *de facto* situation of women of ethnic and minority communities in respect to their access to education, employment and health services. There is also concern about the limited information on their freedom from violence, including female genital mutilation, domestic violence and honour crimes, as well as other discriminatory practices, such as polygamy, early marriage and forced pregnancy.

- Viet Nam, CEDAW, A/56/38 part II (2001) 68 at paras. 258 and 259.

Paragraph 258

Concern is expressed at the lack of legal and other measures to address violence against women, as well as at the failure of the State party to specifically penalize marital rape. Further concerns are expressed that penalties for child sex abuse are low, that there is a prevalence of forced and child marriage, and that cruelty does not constitute grounds for divorce. That there is an overemphasis on reconciliation in cases of marital breakdown, including those in which violence has occurred, is also of concern.

Paragraph 259

General recommendation No. 19 on violence against women should be implemented to ensure that all forms of violence against women and girls constitute crimes and that victims are provided with protection and redress. The criminalization of marital rape is urged, as is close scrutiny of requirements for reconciliation in cases of marital breakdown, in particular those in which violence is involved.

CRC

- Bolivia, CRC, CRC/C/16 (1993) 13 at para. 36.

The diminished level of protection for girl children inherent in the lower minimum age for marriage is discriminatory and, as a result, deprives this group of children of the benefit of other protections afforded by the Convention.

- France, CRC, CRC/C/29 (1994) 17 at para. 100.

In light of the basic principles of the Convention, and in particular article 2, the State party should consider reviewing the present law on the minimum age for marriage.

- Sri Lanka, CRC, CRC/C/43 (1995) 26 at para. 145.

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The existence of disparities concerning the three different laws (Sri Lankan, Kandyan and Muslim) regulating the minimum age for marriage is of concern. These legislations establish different minimum ages for marriage between boys and girls and authorize the marriages of girls as young as 12 years of age who have obtained parental consent. Such situations may raise the question of compatibility with the principles of non-discrimination and the best interests of the child.

- Yemen, CRC, CRC/C/50 (1996) 9 at paras. 32, 33 and 39.

Paragraph 32

Concern is expressed about the lack of conformity of legislative provisions with respect to the legal definition of the child, as is the case of the minimum age for marriage and the age of criminal responsibility, which is set at too low an age level.

Paragraph 33

The persistence of discriminatory attitudes towards girls, hampering the enjoyment of their basic rights including in situations of early marriage, is of deep concern. The lower marriageable age for girls than for boys raises serious questions as to its compatibility with the Convention, in particular article 2.

Paragraph 39

Special measures should be taken to raise the minimum age for marriage while ensuring that the age is the same for boys and girls.

- Yugoslavia (Serbia and Montenegro), CRC, CRC/C/50 (1996) 17 at para. 112.

There appears to be a need for more pre-marriage counselling and family-life education programmes, including as a means to prevent family breakdown.

- Lebanon, CRC, CRC/C/54 (1996) 7 at paras. 40 and 62.

Paragraph 40

The widespread practice of early marriage and the related consequences of high child mortality rates and the negative impact on the health of girls bearing children at an early age are of concern. Consanguineous marriage is also of concern.

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Paragraph 62

Further efforts should be undertaken to disseminate information about the risks of consanguineous marriages, including through the media and health education programmes.

- Nepal, CRC, CRC/C/54 (1996) 25 at paras. 159 and 161.

Paragraph 159

Concern is expressed about the inadequate measures adopted to ensure that national legislation fully conforms with the principles and provisions of the Convention. In particular, the lack of conformity of legislative provisions concerning non-discrimination including in relation to marriage, inheritance and parental property, torture and corporal punishment is noted.

Paragraph 161

The persistent discriminatory attitudes towards girls, as reflected in the prevailing son preference, the persistence of early marriages, the notably lower school attendance of girls and their higher drop-out rate, are of particular concern. The different marriage age of girls and boys, which is not in conformity with article 2 of the Convention, is also a concern.

- Guatemala, CRC, CRC/C/54 (1996) 31 at paras. 205 and 216.

Paragraph 205

The low age of marriage for girls, which is different from the one for boys, is incompatible with the principles and provisions of the Convention.

Paragraph 216

The State party should review its legislation on the age of marriage for girls in the light of the principles and provisions of the Convention, notably those of its articles 2, 3 and 24, with a view to raising it and ensuring the same age for girls and boys.

- Cyprus, CRC, CRC/C/54 (1996) 38 at para. 249.

The consequences of early marriages is are of concern, as is the insufficient awareness and understanding among adults and children of the principles and provisions of the Convention.

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- Nigeria, CRC, CRC/C/57 (1996) 12 at paras. 68 and 89.

Paragraph 68

The persistence of early marriage, child betrothals, discrimination in inheritance, widowhood practices and other harmful traditional practices are of concern.

Paragraph 89

Major efforts are required to address harmful practices such as early marriage, betrothals of children, female genital mutilation and abuse of children in the family. All legislation should be reviewed to ensure its compatibility with the eradication of such violations of children's rights and campaigns should be developed and pursued with the involvement of all sectors of society with a view to changing attitudes in the country as to the non-acceptance of harmful practices.

- Bangladesh, CRC, CRC/C/66 (1997) 22 at para. 161.

Public awareness campaigns and measures should be developed to provide appropriate assistance to families in carrying out their child-rearing responsibilities with a view, *inter alia*, to preventing domestic violence, prohibiting corporal punishment, and preventing early marriages and other harmful traditional practices.

- Algeria, CRC, CRC/C/66 (1997) 35 at para. 240.

The law applicable in the case of rape of a minor that excuses the perpetrator of the crime from penal prosecution if he is prepared to marry his victim is of deep concern. Furthermore, in order to legitimize celebration of marriage which would otherwise contravene the law, article 7 of the Algerian Family Code allows the judge to lower the age for marriage if the victim is a minor.

- Lao People's Democratic Republic, CRC, CRC/C/69 (1997) 8 at paras. 45 and 69.

Paragraph 45

The insufficient measures adopted to discourage early marriage, which is a harmful traditional practice in certain communities, are of concern.

Paragraph 69

All appropriate measures should be taken, including awareness-raising among parents and communities, on the negative effects of early marriage on children.

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- Micronesia, CRC, CRC/C/73 (1998) 20 at para. 118.

The difference between boys and girls with regard to the minimum age of marriage, as well as the possibility for girls to marry at an earlier age than 16, is of concern.

- Maldives, CRC, CRC/C/79 (1998) 31 at para. 212.

The high rate of divorce, considered among the highest in the world, and its possible negative impact on children is of concern. The lack of research and studies on the harmful consequences on children of divorces and early marriages, as well as the insufficient measures to create public awareness on the detrimental effects of divorce, are of further concern.

- Kuwait, CRC, CRC/C/80 (1998) 28 at para. 146.

The practice of early marriage is of concern. All appropriate measures, including legal measures, awareness-raising campaigns with a view to changing attitudes, counselling and reproductive health education, should be taken to prevent and combat this traditional practice which is harmful to the health and well-being of girls and the development of the family.

- Guinea, CRC, CRC/C/84 (1999) 21 at para. 105.

The different minimum legal ages for marriage for boys (18) and girls (16) are of concern. The minimum legal ages for marriage should be increased and awareness-raising campaigns should be undertaken on the negative effects of early marriages.

- Yemen, CRC, CRC/C/84 (1999) 33 at para. 166.

The fact that the legal minimum age for marriage of boys has been lowered from 18 to 15, instead of increasing the one for girls is of deep concern. Adequate reforms should be introduced to raise the legal age of maturity, criminal responsibility, and marriage. Awareness-raising campaigns should be undertaken regarding the harmful effects of early marriage.

- Benin, CRC, CRC/C/87 (1999) 35 at para. 144.

The low minimum legal age for marriage of girls - 15 years under the Civil Code and 14 years under the Dahomey Code of Customary Law - is of concern. The disparity between the minimum

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legal ages for the marriage of boys (18-20 years) and that of girls is of particular concern. The new draft Personal and Family Code still does not adequately address these concerns. Legislation, especially relating to the legal ages for marriage and criminal responsibility, should be reviewed in order to bring it into conformity with the provisions of the Convention.

- Chad, CRC, CRC/C/87 (1999) 45 at para. 181.

The different minimum legal ages for marriage under existing legislation for boys (18) and girls (14), and the lower age for girls which appears to be common for traditional customary law marriages are matters of concern. The commitment to harmonize the minimum legal ages for marriage by increasing the minimum age for girls is encouraged. Awareness-raising campaigns on the negative effects of early marriage should be undertaken.

- Venezuela, CRC, CRC/C/90 (1999) 10 at para. 44.

The different minimum age requirements for marriage for boys (16) and girls (14) as established in the State party's Civil Code are contrary to the principles and provisions of the Convention, especially its articles 2 and 3. The State party should harmonize and increase the legal minimum ages for marriages and undertake awareness raising campaigns on the negative effects of early marriage.

- Mali, CRC, CRC/C/90 (1999) 43 at paras. 208 and 221.

Paragraph 208

The low minimum legal age for marriage of girls (15 years) as compared to that of boys (18 years) remains of concern. The Marriage and Guardianship Code should be amended to bring it into conformity with the provisions of the Convention.

Paragraph 221

Harmful traditional practices such as excision and early and forced marriages continue to be widely practised and this is of concern. Efforts to combat and eradicate traditional harmful practices should be strengthened.

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- India, CRC, CRC/C/94 (2000) 10 at paras. 82 and 109.

Paragraph 82

The health of adolescents, particularly girls, is neglected. For instance, early marriages can have a negative impact on health.

Paragraph 109

The State party should continue its efforts to carry out extensive campaigns to combat harmful traditional practices, such as child marriages and ritual prostitution; and inform, sensitize and mobilize the general public on the child's right to physical and mental integrity, and safety from sexual exploitation.

- Sierra Leone, CRC, CRC/C/94 (2000) 24 at paras. 139 and 140.

Paragraph 139

The Committee is very concerned at the practice of arranging marriages - under customary law - for very young girls, in particular against the free will of the child. Such practices violate the provisions and principles of the Convention.

Paragraph 140

Child rights promotional activities should be undertaken in communities which apply such customary law practices, explaining the rights of children in this regard with a view to ensuring that a minimum age for marriage is established, that it is the same for both boys and girls, and that girls are not forced into marriage.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 52 and 53.

Paragraph 52

Article 1041 of the Civil Code providing that the marriage of a minor is valid if the father or legal guardian has given his consent, notwithstanding the views of the child, is incompatible with the Convention.

Paragraph 53

The State party should take all necessary measures to halt early and forced marriages, including public education campaigns, particularly in rural areas.

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- Jordan, CRC, CRC/C/97 (2000) 31 at paras. 173-175.

Paragraph 173

The efforts made to raise the minimum age for marriage to 18 for both boys and girls are noted. However, the existing age-limits of 15 years for girls and 16 years for boys are too low and are discriminatory. Early and forced marriages, primarily in rural areas, are also a concern.

Paragraph 174

Legislation should be reviewed to ensure that the definition of the child and minimum age requirements conform to the principles and provisions of the Convention and are gender neutral, and steps should be taken to enact any necessary amendments promptly and ensure that they are enforced. In addition, the State party should continue its efforts in respect of public education campaigns to combat early and forced marriages, particularly in rural areas.

Paragraph 175

Concern is expressed that discriminatory social attitudes towards the education of girls, primarily in rural areas, result in their low levels of school enrolment and high drop-out rates, and in early and forced marriages.

See also:

- Egypt, CRC, CRC/C/103 (2001) 36 at paras. 220 and 221.

- Cambodia, CRC, CRC/C/97 (2000) 64 at para. 354.

The law on minimum age for marriage should be enforced.

- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 469 and 470.

Paragraph 469

The low legal minimum age for marriage of girls (15 years under the Civil Code and 13 years under the Asian Marriage Act) is of concern. The practice of early and forced marriages which affects mostly girls, particularly those living in the interior, is noted with concern. The low legal minimum age for marriage of boys (15 years) under the Asian Marriage Act is also a concern. Concern is also expressed about the disparity between the ages for boys and girls.

Paragraph 470

Legislation relating to the legal ages for marriage should be reviewed and brought into conformity with the provisions of the Convention and to eliminate discrimination. The State

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party should take all appropriate measures to raise awareness about the harmful effects of early and forced marriages, particularly on girls.

- Djibouti, CRC, CRC/C/97 (2000) 96 at paras. 534, 535, 542 and 543.

Paragraph 534

It is noted that the new draft Family Code will set the legal minimum age for marriage at 18 for both boys and girls. Current traditional practice considers 15 years as a suitable age for marriage for girls, while it is 18 for boys. The marriage age for girls is too low and is a form of gender discrimination not acceptable under the provisions of article 2 of the Convention.

Paragraph 535

The State party should continue its efforts to increase the legal minimum age for marriage and eliminate discrimination against girls in this regard, and it should consider the need for effective public information and sensitization activities to discourage early marriage.

Paragraph 542

The impact on children of the continuing practice of polygamy is a matter of concern.

Paragraph 543

The State party is encouraged to review its legislation, programmes and policies so as to discourage the practice of polygamy.

See also:

- Comoros, CRC, CRC/C/100 (2000) 110 at paras. 618 and 619.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 109 and 110.

Paragraph 109

Concern is expressed about the difference in the legal minimum ages for marriage of girls and boys.

Paragraph 110

The State party should pursue its efforts to harmonize the minimum ages for marriage of girls and boys.

See also:

- Lesotho, CRC, CRC/C/103 (2001) 57 at paras. 333 and 334.

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- Marshall Islands, CRC, CRC/C/100 (2000) 89 at paras. 507 and 508.

Paragraph 507

The disparity between the minimum legal age for the marriage of boys (18 years) and that of girls (16 years) is of concern.

Paragraph 508

In light of article 1 and other related provisions and principles of the Convention, the State party is encouraged to pursue its efforts to review its legislation with a view to increasing the minimum age of marriage for girls to that for boys in order to bring it into full conformity with the provisions and principles of the Convention.

See also:

- Palau, CRC, CRC/C/103 (2001) 79 at paras. 450 and 451.

- Ethiopia, CRC, CRC/C/103 (2001) 24 at paras. 130, 131, 156, 157, 180 and 181.

Paragraph 130

Concern is expressed at the failure to enforce legislation which would serve to protect the rights of children, including with regard to harmful traditional practices such as female genital mutilation, early and forced marriage and discrimination against children with disabilities. Domestic law is not yet fully compatible with the provisions and principles of the Convention. The process of drafting and adopting new legislation is slow. In addition, concern is expressed that some customary practices which are prejudicial to children's rights may still be applied instead of modern domestic legal provisions.

Paragraph 131

The State party should strengthen its efforts to implement and enforce those aspects of domestic legislation which serve to protect children's rights, giving particular attention to problems of harmful traditional practices, early and forced marriage and discrimination against children with disabilities. Steps should be taken through amendment or enactment, to ensure that domestic legislation is fully compatible with the principles and provisions of the Convention and to ensure that new legislation reaches the adoption stage rapidly. Additional efforts should be made to ensure that domestic law is applied in preference to customary practices which may infringe children's rights.

Paragraph 156

The continuing practice of early and forced marriage of children is a concern.

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Paragraph 157

Every effort should be made to ensure that provisions in the new Family Code which raise the minimum age for marriage of both girls and boys to 18 are respected in practice and that forced marriages are prevented.

Paragraph 180

Deep concern is expressed at reports from the National Committee on Traditional Practices in Ethiopia (NCTPE) (September 1998) indicating that 72.7 per cent of the female population undergoes some form of female genital mutilation. Other practices reported by the NCTPE, are matters of concern, including uvulectomy, milk-teeth extraction and forced marriage.

Paragraph 181

The State party is urged to continue and strengthen its current efforts to end practices of female genital mutilation, early and forced marriage and other harmful traditional practices. The State party should take advantage of the experience gained by other countries.

See also:

- Central African Republic, CRC, CRC/C/100 (2000) 77 at paras. 443 and 444.
- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 395 and 396.

Paragraph 395

Concern is expressed that the definition of the child is unclear under Saudi law and that the age of majority is not defined. For example, the absence of a defined minimum age for marriage may result in the arbitrary and disparate application of laws and discrimination between girls and boys.

Paragraph 396

The State party should review its legislation so that the definition of the child, the age of majority and other minimum age requirements conform to the principles and provisions of the Convention and are gender neutral in particular, and ensure that they are enforced by law.

- Dominican Republic, CRC, CRC/C/103 (2001) 91 at paras. 501 and 502.

Paragraph 501

The different minimum legal age for marriage with parental consent for girls (15 years) and for boys (16 years) is of concern.

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Paragraph 502

The State party should raise and equalize the minimum legal age for marriage for boys and girls.

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 105 and 106.

Paragraph 105

Concern is expressed about the disparity between the minimum legal age for marriage of boys (17 years) and of girls (15 years). In this regard, it is noted that in the draft civil code the minimum legal age for marriage has been raised to 17 for both boys and girls.

Paragraph 106

In light of articles 1 and 2 and related provisions of the Convention, the State party is encouraged to pursue its efforts to review its legislation with a view to increasing the minimum age for marriage of girls to that of boys.

See also:

- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 169 and 170.
- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 272 and 273.

- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 189 and 190.

Paragraph 189

Current legislation and common practice provide insufficient protection to children in the context of early and forced marriage. Concern is expressed about the early marriage of many girls and at the practice through which an uncle may decide to marry his niece.

Paragraph 190

Measures should be implemented to ensure that traditional marriage practices, including forced marriages, which are harmful to children are prohibited through the adoption and implementation of appropriate legislation. The State party should make use of information campaigns to help change practices, particularly in rural communities, and ensure that marriages are registered in all areas of the country.

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- Guatemala, CRC, CRC/C/108 (2001) 47 at paras. 249 and 250.

Paragraph 249

It is noted that although a proposal to set the minimum legal age for marriage for both boys and girls at 16 was introduced in Congress, it was never considered.

Paragraph 250

In light of articles 1 and 2 of the Convention, legislation should be reviewed with a view to increasing the minimum age of marriage for girls to that for boys.

- Côte d'Ivoire, CRC, CRC/C/108 (2001) 59 at paras. 307 and 308.

Paragraph 307

Concern remains about the difference between the minimum legal age for marriage of boys (20 years) and that of girls (18 years). Moreover, it is of deep concern that no minimum age has been set for the end of compulsory education and that the practice of early marriage is still widespread.

Paragraph 308

Legislation should be reviewed with a view to eliminating all disparities regarding minimum-age requirements, and greater efforts should be made to enforce the requirements. It is strongly recommended that the State party set a minimum age for the end of compulsory education and develop sensitization programmes to curb the practice of early marriage.

- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 374, 375, 410 and 411.

Paragraph 374

The various legal minimum ages, which are inconsistent, are discriminatory and/or too low.

Paragraph 375

The necessary legislative measures should be taken to establish a clear minimum age for marriage which should be the same for boys and girls.

Paragraph 410

The present rules relating to marriages between refugees and Tanzanian nationals are discriminatory as regards female Tanzanian nationals, particularly concerning the residential status and rights of their spouses and children.

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Paragraph 411

A policy should be developed to permit refugees married to Tanzanian nationals, irrespective of gender, to obtain residential status and/or naturalization and the rights of the children of such unions should be further guaranteed.

- Monaco, CRC, CRC/C/108 (2001) 97 at paras. 505 and 506.

Paragraph 505

It is of concern that domestic legislation discriminates between boys and girls, providing that girls may legally marry without adult consent from age 15 and boys from age 18.

Paragraph 506

The State party should amend its legislation to ensure that both boys and girls are treated equally, and recommends in particular that the legal age of marriage be fixed for both boys and girls at age 18.