

PROTECTION OF THE FAMILY - MARRIAGE

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Denmark, CERD, A/57/18 (2002) 27 at para. 119.

119. While acknowledging the information provided in the report regarding article 5 of the Convention, the Committee reiterates that equal attention should be paid to economic, social and cultural rights, particularly with respect to minorities. The Committee is concerned about the impact of the recent (May 2000) amendments to the Aliens Act, particularly as they abolish the statutory right to reunification of spouses under the age of 25 years. The Committee encourages the State party to take effective measures to ensure that the right to family life is guaranteed to all persons in Denmark without distinction...

- Qatar, CERD, A/57/18 (2002) 38 at paras. 195 and 196.

195. Concern was expressed that marriage between nationals of Qatar and foreigners is subject to prior approval by the Minister of the Interior...

196. The Committee also notes with concern that the State party does not appear to guarantee freedom of marriage between nationals and non-nationals unless the latter are nationals of States members of the Gulf Cooperation Council. Such a distinction, based upon national origin, does not, in the Committee's view, appear to be consistent with article 5, paragraph (d) (iv), of the Convention.

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

332. The Committee is concerned that some aspects of the Indian Act may not be in conformity with rights protected under Article 5 of the Convention, in particular the right to marry and to choose one's spouse, the right to own property and the right to inherit, with a specific impact on Aboriginal women and children. The Committee recommends that the State party examine those aspects, in consultation with Aboriginal peoples...

- Ghana, CERD, A/58/18 (2003) 30 at para. 113.

113. The Committee expresses its concern about the existence of certain negative traditional practices that, according to the report, discriminate against people on racial or ethnic grounds, in particular in cases of interracial or inter-ethnic marriages...

PROTECTION OF THE FAMILY - MARRIAGE

- Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 214.

214. The Committee, noting the information provided concerning the acquisition of nationality under the Nationality Regulations, is nevertheless concerned that a Saudi woman is unable to transmit her nationality to her child when she is married to a foreign national, and that a foreign man is unable to acquire Saudi nationality in the same manner as a foreign woman. The Committee requests the State party to consider the possibility of modifying these provisions in order to conform to article 5 (d) (iii) of the Convention.

- Suriname, CERD, A/59/18 (2004) 36 at para. 204.

204. The Committee takes note of the State party's desire to respect the marriage customs of various ethnic groups, its efforts to establish a uniform age of consent at 18 years, and to ban marriages to which the woman does not consent. On this point, it observes that the 1973 Marriage Act came into force in June 2003.

The Committee recommends continued efforts by the State party to ensure that the rights of women are respected, irrespective of the community they belong to, especially where marriage is concerned...

- Iceland, CERD, A/60/18 (2005) 51 at para. 267.

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

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

- Nigeria, CERD, A/60/18 (2005) 54 at para. 290.

290. While noting that the 1958 Osu Abolition Law legally abolished work- and descent-based discrimination, the Committee remains concerned about persistent allegations that members of the Osu and other similar communities are still subjected to social exclusion, segregation and mistreatment, as well as discrimination in employment and marriage (arts. 2, 3 and 5).

PROTECTION OF THE FAMILY - MARRIAGE

The Committee draws the State party's attention to its general recommendation XXIX (2002) concerning racial discrimination based on descent...It strongly recommends that the State party develop, in cooperation with non-governmental organizations and religious leaders, effective programmes to prevent, prohibit and eliminate private and public practices that constitute segregation of any kind, including a wide-ranging information and public-awareness campaign to put an end to these practices.

ICCPR

- United Kingdom of Great Britain and Northern Ireland (Overseas Territories), ICCPR, A/57/40 vol. I (2002) 36 at para. 75(26).

(26) The Committee appreciates the elimination of constitutional rules inconsistent with articles 3 and 26 of the Covenant which discriminated between the rights accorded to spouses of male and female British Virgin Islanders.

- Sweden, ICCPR, A/57/40 vol. I (2002) 57 at para. 79(9).

(9) The Committee expresses its concern at the recognition of early marriage involving girls of non-Swedish nationality who are resident in Sweden (articles 3 and 26 of the Covenant).

The State party should take vigorous measures to provide better protection for minors in the matter of marriage and eliminate all forms of discrimination among them.

- Yemen, ICCPR, A/57/40 vol. I (2002) 72 at paras. 83(7), 83(9) and 83(10).

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

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

...

(9) The Committee notes the persistence of the practice of polygamy, which is detrimental to human dignity and discriminatory within the meaning of the Covenant (articles 3 and 26 of the Covenant).

The State party is strongly encouraged to abolish polygamy and combat it socially by

PROTECTION OF THE FAMILY - MARRIAGE

effective means.

(10) The Committee expresses its concern about the practice of marriage of young girls and the inequality between men and women as regards marriageable age (articles 3 and 26 of the Covenant).

The State party should protect girls from early marriage and do away with discrimination against women as regards marriageable age.

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at paras. 77(3), 77(8) and 77(9).

(3) The Committee...some improvements in the status of women and welcomes the creation of the National Council for Women and the introduction of legal reforms, in particular the passage of Act No. 1 of 2000, allowing women to end marriages unilaterally, and Act No. 14 of 1999, revoking the earlier law which offered the accused the opportunity of escaping liability for abduction and rape if he married the victim.

...

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

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

(9) The Committee notes the discriminatory nature of some provisions in the Penal Code, which do not treat men and women equally in matters of adultery (articles 3 and 26 of the Covenant).

The State party should review its discriminatory penal provisions in order to conform to articles 3 and 26 of the Covenant.

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

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

PROTECTION OF THE FAMILY - MARRIAGE

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

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

(10) While welcoming the establishment of a Ministry for the Advancement of Women, Children and the Family, the Committee expresses its grave concern at the continued existence in Mali of legislation which discriminates against women, in particular with regard to marriage, divorce, and inheritance and succession, and of discriminatory customary rules relating to property ownership. The Committee, while appreciating that adoption of a Family Code requires wide-ranging consultations, notes with concern that the proposed reform, ongoing since 1998, has not yet concluded. The Committee is also concerned about information that the practice of the levirate, a practice whereby a widow is inherited by the deceased husband's brother or cousin, is said to persist in Mali (articles 3, 16 and 23 of the Covenant).

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

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

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

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

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at para. 85(21).

PROTECTION OF THE FAMILY - MARRIAGE

(21) The Committee is concerned about Israel's temporary suspension order of May 2002, enacted into law as the Nationality and Entry into Israel Law (Temporary Order) on 31 July 2003, which suspends, for a renewable one-year period, the possibility of family reunification, subject to limited and subjective exceptions, especially in the cases of marriages between an Israeli citizen and a person residing in the West Bank or in Gaza. The Committee notes with concern that the suspension order of May 2002 has already adversely affected thousands of families and marriages.

The State party should revoke the Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003, which raises serious issues under articles 17, 23 and 26 of the Covenant. The State party should reconsider its policy with a view to facilitating family reunification of all citizens and permanent residents...

- Sri Lanka, ICCPR, A/59/40 vol. I (2003) 30 at paras. 66(19) and 66(20).

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

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

(20) The Committee deplores the high incidence of violence against women, including domestic violence. It regrets that specific legislation to combat domestic violence still awaits adoption and notes with concern that marital rape is criminalized only in the case of judicial separation (art. 7).

The State party is urged to enact appropriate legislation in conformity with the Covenant without delay. It should criminalize marital rape in all circumstances. The State party is also urged to initiate awareness-raising campaigns about violence against women.

- Germany, ICCPR, A/59/40 vol. I (2004) 39 at para. 68(4).

(4) The Committee appreciates the measures taken to improve the protection of children, in particular legislation granting children a right to education in a non-violent environment, the removal of remaining differences in the legal status of children born in and out of

PROTECTION OF THE FAMILY - MARRIAGE

wedlock, and the introduction of elements of *jus soli* for children born in Germany to foreign parents.

- Suriname, ICCPR, A/59/40 vol. I (2004) 43 at para. 69(18).

(18) The Committee is concerned that the current Asian Marriage Act provides for “arranged marriages” and sets the minimum age for marriage at 13 years for female and 15 years for male citizens of Asian descent. These ages are incompatible with articles 3 and 26 and article 24, paragraph 1, of the Covenant. Marriage at such a young age, and in particular arranged marriages, is also incompatible with article 23 of the Covenant, which stipulates that no marriage shall be entered into without the free and full consent of the intending spouses. While the State party submits that citizens of non-Asian descent also may marry under this Act, it has not responded to the Committee’s request for statistics on how many non-Asians have actually done so (arts. 23 and 24).

The State party should take steps to change the current marriage legislation and to bring it into conformity with the Covenant.

- Uganda, ICCPR, A/59/40 vol. I (2004) 47 at paras. 70(9) and 70(23).

(9) The Committee notes with concern the continued existence of customs and traditions in the State party that affect the principle of equality of men and women and that may impede the full implementation of many provisions of the Covenant. In particular, the Committee deplores the fact that polygamy is still recognized by law in Uganda; in this context, it refers to its general comment No. 28, which states that polygamy is incompatible with equality of treatment with regard to the right to marry. The provisions in the proposed Domestic Relations Bill which would discourage the practice of polygamy are not sufficient (arts. 3 and 26).

The State party should take legislative measures to outlaw polygamy in addition to strengthening its ongoing awareness-raising campaigns.

...

(23) The Committee is concerned at the practice of early and forced marriage in the State party, despite the minimum age for marriage of 18 years (art. 23).

The State party should take effective steps to do away with this practice and to sanction those involved in its occurrence.

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

PROTECTION OF THE FAMILY - MARRIAGE

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

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

- Benin, ICCPR, A/60/40 vol. I (2004) 30 at para. 83(10).

(10) The Committee notes that under the new Personal and Family Code, only monogamous marriage is recognized, and that custom ceases to have the force of law in all matters covered by the present Code. The Committee is concerned, however, at the possible consequences of polygamous marriages that might nevertheless be concluded under customary law, particularly as regards the protection that would be afforded to women involved in such unions (articles 3 and 23 of the Covenant).

The State party should clearly prohibit the conclusion of new polygamous marriages, in accordance with the Committee's general comment No. 28 on article 3 of the Covenant. It should provide greater protection to women who, once the new Personal and Family Code has entered into force and out of respect for tradition, may enter into polygamous unions when such unions no longer have any legal standing. The Committee invites the State party to increase its efforts to inform women and make them aware of these issues, including in the remotest parts of the country.

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at paras. 84(27), 84(30) and 84(33).

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

The State party should comply with the provisions of articles 3, 23 and 26 of the Covenant

PROTECTION OF THE FAMILY - MARRIAGE

by revising the legislation concerned.

...

(30) The Committee regrets that the new Family Code, while placing limitations on the practice of polygamy, nevertheless does not ban it, despite the fact that it is detrimental to women's dignity (Covenant, arts. 3, 23 and 26).

The State party should ban polygamy clearly and definitively (Covenant, arts. 3, 23 and 26).

...

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

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

- Kenya, ICCPR, A/60/40 vol. I (2005) 44 at para. 86(10).

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

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

- Uzbekistan, ICCPR, A/60/40 vol. I (2005) 56 at para. 89(24).

(24) The Committee regrets that even though the Criminal Code prohibits polygamy, the phenomenon persists, violating women's dignity. It is also concerned about the practice of kidnapping young women to force them to marry, which resurfaced after the State party's independence (Covenant, arts. 3, 23 and 26).

PROTECTION OF THE FAMILY - MARRIAGE

The State party should ensure that the relevant provisions of its Criminal Code are fully implemented, so as to put an end to the practice of polygamy. It should combat the practice of forced marriages of kidnapped women.

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

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

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

- Yemen, ICCPR, A/60/40 vol. I (2005) 65 at paras. 91(9) and 91(21).

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

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

...

(21) The Committee notes with concern that the Personal Status Act allows children aged 15 to marry, and that early marriage of girls, sometimes below the age fixed by the law, persists. It is also concerned about marriages of under-age children contracted by their guardians. This practice jeopardizes the effectiveness of the consent given by spouses, their right to education and, in the case of girls, their right to health (arts. 3, 23 and 24).

The State party should raise the minimum age of marriage and ensure that it is respected in practice.

- Tajikistan, ICCPR, A/60/40 vol. I (2005) 70 at para. 92(4).

(4) The Committee welcomes the existence of legal sanctions against forced marriages and polygamy.

PROTECTION OF THE FAMILY - MARRIAGE

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

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

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

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

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

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

ICESCR

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

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

...

832. The Committee urges the State party to undertake a radical reform of the Family Code

PROTECTION OF THE FAMILY - MARRIAGE

in order to give full recognition to the equal rights of women, to conduct an information campaign on gender equality and to introduce gender mainstreaming into all its legislation in accordance with the provisions of the Covenant.

Notes

...

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

- France, ICESCR, E/2002/22 (2001) 121 at paras. 865 and 876.

865. The Committee is concerned that the State party has not yet changed the minimum age for marriage for girls (15 years) in the Civil Code to conform with that for boys (18 years), especially in the light of the delegation's statement that this discrepancy has not had an actual impact on the marriage rate, which has demonstrated an increasing average age of marriage for both sexes.

...

876. The Committee recommends that the legal minimum age for marriage for girls be raised to 18 years.

- Benin, ICESCR, E/2003/22 (2002) 34 at paras. 167 and 186.

167. The Committee deplores the State party's lack of progress in countering practices - in particular, polygamy and the early and forced marriage of girls - which prevent women and girls from exercising the rights which the Covenant accords them.

...

186. The Committee enjoins the State party to ban customary practices that violate women's rights and to take energetic action to combat such practices and beliefs by all available means, including educational programmes involving traditional chiefs. The State party should concentrate more on eradicating the practice of polygamy and forced marriages.

- Israel, ICESCR, E/2004/22 (2003) 42 at paras. 266 and 282.

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

...

PROTECTION OF THE FAMILY - MARRIAGE

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

- Denmark, ICESCR, E/2005/22 (2004) 49 at paras. 390 and 403.

390. The Committee notes with concern that the 24-year rule introduced by amendment to the Aliens Act in 2002 restricts the right to family reunification and may constitute an impediment to the right to family life in the State party.

...

403. The Committee calls upon the State party to take appropriate measures to either repeal or amend the so-called 24-year rule of the 2002 Aliens Act, in line with its obligation to guarantee the enjoyment of the right to family life to all persons in Denmark, without distinction. In this connection, the Committee encourages the State party to consider alternative means of combating the phenomenon of forced marriage involving immigrant women.

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

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

...

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

CEDAW

- Fiji, CEDAW, A/57/38 part I (2002) 9 at paras. 58-61, 66 and 67.

58. The Committee notes with concern the high incidence of ethnic and gender-based violence against women in periods of civil unrest. It is concerned that, despite the State party's positive initiatives to address gender-based violence, there are high levels of domestic violence and sexual abuse of girls and women. The Committee is also concerned that the social customs on the husband's right of chastisement, and "bulu bulu", gives social legitimacy to violence...

PROTECTION OF THE FAMILY - MARRIAGE

59. The Committee requests the State party to strengthen its initiatives to combat gender-based violence and adopt the proposed laws on domestic violence and sexual offences very early, prohibiting practices that legalize violence against women. In particular, it calls on the State party to reinforce its "no drop" policy by prohibiting the reconciliation of cases of rape and sexual assault on the basis of the "bulu bulu" custom...

60. The Committee notes with concern that an increase in levels of poverty and adverse economic conditions are undermining Fiji's gains in women's education. These conditions have led to a higher incidence of girls dropping out of school, with connected problems of early marriage, teenage pregnancies and sexual exploitation.

61. The Committee recommends the introduction of targeted policies and programmes to reduce poverty, prevent early marriage, teenage pregnancies and girls dropping out of school.

...

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

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

- Estonia, CEDAW, A/57/38 part I (2002) 13 at paras. 99 and 100.

99. The Committee notes with concern that sexual intercourse with a girl only up to 14 years of age is considered to be rape, and Estonian law permits the marriage of a girl between the ages of 15 and 18 in exceptional circumstances, such as pregnancy.

100. The Committee recommends that the State party amend its law on statutory rape and bring its law on early marriage into conformity with article 16, paragraph 2, of the Convention, and its own policies on the reproductive health of women and girls. It urges the State party to develop preventive optional welfare programmes to address the problem of teenage pregnancy.

- Trinidad and Tobago, CEDAW, A/57/38 part I (2002) 19 at paras. 157 and 158.

157. The Committee is concerned that child marriages are sanctioned under several of the legal regimes regulating marriage. The Committee notes that such marriages are prohibited by article 16, paragraph 2, of the Convention, and that such marriages have serious

PROTECTION OF THE FAMILY - MARRIAGE

consequences for girls, including with regard to health...

158. The Committee urges the State party to ensure that all its minimum age of marriage laws and other programmes to prevent early marriage are in line with the obligations of the Convention...

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

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

205. The Committee urges the Government to actively promote the elimination of the discriminatory legal provisions that still exist, particularly in the Civil Code in matters relating to the family, and to bring Uruguayan legislation into line with the Convention, including article 16.2 relating to minimum age for marriage.

- Sri Lanka, CEDAW, A/57/38 part I (2002) 31 at paras. 270, 274 and 275.

270. The Committee commends the introduction of legal reforms that have been adopted since 1995, in particular the amendments to the Penal Code, which introduced new offences and more severe punishments with regard to violence against women, as well as the revision of the marriage laws, which increased the age of marriage, except in the case of Muslims, to 18 for both women and men.

...

274. The Committee expresses its concern at the contradiction between the constitutional guarantees of fundamental rights and the existence of laws that discriminate against women...The Committee is also concerned at the existence of discriminatory legislation, such as the Land Development Ordinance, and the provisions allowing for Muslim personal law, which, *inter alia*, does not provide a minimum age of marriage, as well as the nationality law which precludes Sri Lankan women from passing nationality to their children on an equal footing with men.

275. The Committee urges the State party to review all existing laws and amend discriminatory provisions so that they are compatible with the Convention and the Constitution... The Committee further recommends that, in its efforts to eliminate discriminatory legislation, the State party take into account, where appropriate, suggestions and recommendations from bodies such as the Muslim personal law reforms committee set up by the Ministry of Muslim Religious and Cultural Affairs. The Committee also encourages the Government to obtain information on comparative jurisprudence, including that which interprets Islamic law in line with the Convention.

PROTECTION OF THE FAMILY - MARRIAGE

- Suriname, CEDAW, A/57/38 part II (2002) 82 at paras. 59, 60, 67 and 68.

59. The Committee expresses concern at discriminatory practices and certain legal labour provisions that could lead to discrimination against women workers with regard to reproductive health and maternity and notes that, in the civil service, women are discriminated against when entering into marriage or becoming pregnant...

60. The Committee recommends that the State party remove discriminatory labour legislation in accordance with article 11 of the Convention and ensure that women workers have working conditions and social security benefits equal to those enjoyed by men...

...

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

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

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

184. The Committee commends the State party on the early reform of its Personal Status Code, which abolished polygamy and granted the right to divorce to both spouses, and its reform of the inheritance law. The Committee welcomes the continuing legislative reforms by the State party. It welcomes the amendments to the Personal Status Code, which provide women with the capacity to institute legal proceedings in their own name, affirm the principle of equality and partnership between spouses, provide that both parties should cooperate in managing family affairs, prevent manipulation of divorce proceedings by the husband, allow spouses to agree to a joint property regime and grant women the right to give their family name to a child born of an unknown father and the opportunity for gene-testing to prove parenthood. The Committee also welcomes the reform of the Penal Code, which imposes heavy penalties for the killing of a woman for adultery.

- Zambia, CEDAW, A/57/38 part II (2002) 107 at paras. 234, 235 and 250-255.

234. The Committee is concerned that the provisions in existing laws, including new laws such as the Marriage Act and the Employment Act, discriminate against women directly or indirectly.

235. The Committee calls upon the State party to review and reform its legislation to ensure

PROTECTION OF THE FAMILY - MARRIAGE

it is in harmony with the Convention.

...

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

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

252. The Committee is concerned that polygamy is widely accepted and not effectively combated by the State party.

253. The Committee recommends that the State party take comprehensive and effective measures, including the training for judicial and law enforcement officials and public awareness-raising campaigns, in order to eliminate the practise of polygamy.

254. The Committee is concerned that aspects of the law nationality as described in the report continue to discriminate against female spouses.

255. The Committee recommends that these laws be amended in conformity with article 9 of the Convention, and that court decisions recognizing women's equal rights be enforced.

- Denmark, CEDAW, A/57/38 part II (2002) 120 at paras. 345-348.

345. The Committee regrets the introduction in new legislation of an increase in the age limit for spousal reunification from 18 years to 24 years of age in order to combat forced marriage.

346. The Committee urges the State party to consider revoking the increase in the age limit for family reunification with spouses, and to explore other ways of combating forced marriages.

347. The Committee is concerned that the situation of foreign married women with temporary residence permits who experience domestic violence will worsen when the amendment to the Aliens Act enters into force on 1 July 2002, which will increase the required number of years of residence from three to seven before a permanent residence

PROTECTION OF THE FAMILY - MARRIAGE

permit may be obtained. The Committee is also concerned that these women's fear of expulsion will be a deterrent to their seeking assistance or taking steps to seek separation or divorce.

348. The Committee recommends that revocation of temporary residence permits of foreign married women who experience domestic violence, and legislative changes on residency requirements, should not be undertaken without a full assessment of the impact of such measures on these women.

- Armenia, CEDAW, A/57/38 part III (2002) 150 at paras. 64 and 65.

64. The Committee is concerned that the minimum legal age for marriage is 17 years for women and 18 years for men. It is also concerned that in exceptional circumstances girls may marry at 16.

65. The Committee recommends that the State party raise the age of marriage for women to 18 years.

- Czech Republic, CEDAW, A/57/38 part III (2002) 157 at paras. 95 and 96.

95. ...The Committee is concerned that the definition of the crime of rape is based on the use of force, rather than lack of consent and that rape within marriage is not currently considered a specific crime.

96. ...The Committee urges the State party to define the crime of rape as sexual intercourse without consent and to explicitly address the crime of rape within marriage.

- Uganda, CEDAW, A/57/38 part III (2002) 164 at paras. 153 and 154.

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

154. The Committee urges the State party, in line with Article 33 (6) of the 1995 Constitution, to amend these laws and prohibit such practices. The Committee requests the State party to work with the relevant ministries and non-governmental organizations,

PROTECTION OF THE FAMILY - MARRIAGE

including lawyers' associations and women's groups, to create an enabling environment for legal reform and effective law enforcement and legal literacy.

- Guatemala, CEDAW, A/57/38 part III (2002) 171 at paras. 196 and 197.

196. The Committee expresses concern about the disparity between the legal age of marriage for girls and boys, which is discriminatory. The Committee is further concerned that the minimum age at which a girl can legally contract matrimony - 14 years - is too low and can impact negatively on their health and impede their education.

197. The Committee urges the State party to take steps to remove the disparity in the legal age of marriage of women and men and take measures to raise the minimum age of marriage for girls, in line with article 1 of the Convention on the Rights of the Child, which defines a child as being below the age of 18, and the provision on child marriage in article 16, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women. The Committee urges the State party to develop awareness campaigns on the negative implications of early marriage on the health and education of girls.

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

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

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

- Hungary, CEDAW, A/57/38 part III (2002) 189 at paras. 333 and 334.

333. ...The Committee is...concerned that Hungarian law permits early marriage of girls between the ages of 16 and 18 in certain circumstances.

334. ...The Committee...urges the State party to take measures to raise the minimum age of marriage for girls in line with article 1 of the Convention on the Rights of the Child, which defines a child as being below the age of 18, and the provision on child marriage in article 16, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination

PROTECTION OF THE FAMILY - MARRIAGE

against Women. The Committee urges the State party to develop awareness campaigns on the negative implications of early marriage on the health and education of girls.

- Yemen, CEDAW, A/57/38 part III (2002) 200 at paras. 392-395.

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

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

394. The Committee is concerned about the high rate of early marriages, which creates a serious health risk for girls and prevents them from completing their education.

395. The Committee urges the State party to take measures to raise the minimum age of marriage for girls, in line with article 1 of the Convention on the Rights of the Child, which defines a child as being below the age of 18, and the provision on child marriage in article 16, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women. The Committee urges the State party to develop awareness campaigns on the negative implications of early marriage on the health and education of girls.

- Mexico, CEDAW, A/57/38 part III (2002) 205 at paras. 449 and 450.

449. The Committee notes with concern that the minimum legal age of marriage, which is set at 16 in most of the states, is very young and not the same for girls and boys.

450. The Committee recommends that the law be revised by raising the minimum legal age of marriage in order to bring it into line with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the

PROTECTION OF THE FAMILY - MARRIAGE

Rights of the Child and make it equally applicable to girls and boys.

- Peru, CEDAW, A/57/38 part III (2002) 212 at paras. 488 and 489.

488. The Committee notes with concern that the minimum age at which a girl can legally contract matrimony - 16 years, and in exceptional cases 14 years - is very young, resulting in serious risks to girls' health and preventing them from completing their education.

489. The Committee urges the State party to take measures to raise the minimum legal age for girls to contract matrimony in order to bring it into line with article 1 of the Convention on the Rights of the Child, which defines a "child" as anyone under the age of 18 years, and with article 16, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women. The Committee urges the State party to conduct awareness-raising campaigns on the negative implications of early marriage for the health and education of girls.

- Albania, CEDAW, A/58/38 part I (2003) 13 at para. 61.

61. The Committee urges the State party to review all existing laws and amend remaining discriminatory provisions so that they become compatible with the Convention and the Committee's general recommendations. It encourages the speedy adoption of the Family Code under revision, including the provision for equality between women and men in the minimum age of marriage.

- Switzerland, CEDAW, A/58/38 part I (2003) 20 at paras. 102, 120, 121, 136 and 137.

102. The Committee notes with appreciation the significant law reform undertaken in the State party in several areas in conformity with the Convention, particularly: the Marriage Law (1988), which replaced the husband's preponderant role in the family with a partnership based on equality of rights and obligations on the part of each spouse; ... and the new Divorce Law (2000), regulating the economic consequences of divorce...

...

120. The Committee is concerned about the particular situation of foreign women who experience domestic violence and whose residence permits depend on their living together with their spouse. The Committee is concerned that fear of expulsion will be a deterrent for these women to seek assistance or take steps to seek separation or divorce.

121. The Committee recommends that revocation of the temporary residence permits of foreign married women who experience domestic violence, and any legislative changes with

PROTECTION OF THE FAMILY - MARRIAGE

regard to residency requirements that may be under consideration, be undertaken only after a full assessment of the impact of such measures on those women.

...

136. The Committee is concerned that, under Swiss law, the status of spouses is still unequal as regards cantonal and communal domicile rights. It notes that attempts to abolish that inequality were defeated in Parliament in June 2001.

137. The Committee calls upon the State party to ensure that the legislation that regulates cantonal and communal domicile rights is brought into harmony with the Convention.

See also:

- Japan, CEDAW, A/58/38 part II (2003) 130 at paras. 361 and 362.
- Congo, CEDAW, A/58/38 part I (2003) 29 at paras. 160, 161 and 180-183.

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

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

...

180. The Committee expresses concern at the continued existence of the practice of polygamy in the Congo, which is discriminatory to women. The Committee wishes to draw the State party's attention to the Committee's general recommendation number 21, paragraph 14, which states:

“...polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependants that such marriages ought to be discouraged and prohibited. The Committee notes with concern that some States parties, whose constitutions guarantee equal rights, permit polygamous marriage in accordance with personal or customary law. This violates the constitutional rights of women, and breaches the provisions of article 5 (a) of the Convention.”

181. The Committee recommends action without delay by the State party to bring marriage laws, particularly as they relate to polygamy, into compliance with the Constitution and the Convention.

PROTECTION OF THE FAMILY - MARRIAGE

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

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

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

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

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

- El Salvador, CEDAW, A/58/38 part I (2003) 41 at paras. 257 and 258.

257. While the Committee welcomes the effort made by the State party to combat domestic violence through the recent establishment of a National Plan on Domestic Violence, it views with concern the persistence of violence against women in El Salvador. The Committee is

PROTECTION OF THE FAMILY - MARRIAGE

also concerned about the legal consequences of conciliation between aggressor and victim in the pre-trial phase, which could work to the detriment of the latter.

258. The Committee urges the State party, taking into account General Recommendation 19 on violence against women, to undertake practical measures to follow up and monitor the application of legislation, evaluating its effectiveness and making the appropriate adjustments, in particular so as to ensure that the legal consequences of conciliation provided for by law do not work to the detriment of the victim.

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

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

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

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

425. While noting that the State party has placed the issue of forced marriages and female genital mutilation on the political agenda for the past few years, and has developed action plans and taken other political measures, the Committee is concerned at the extent of these practices.

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

- Brazil, CEDAW A/58/38 part II (2003) 93 at paras. 93, 104 and 105.

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

...

104. The Committee is concerned that the Penal Code still contains several provisions that

PROTECTION OF THE FAMILY - MARRIAGE

discriminate against women. It is concerned about articles 215, 216 and 219 that require the victim to be an “honest woman” in order to prosecute the perpetrator. It is also concerned that article 107 covering “crimes against custom” provide for mitigation of sentence when the perpetrator married his victim, or when the victim marries a third party. The Committee notes that the draft bills to amend the Penal Code are being discussed in the National Congress.

105. The Committee calls upon the State party to give priority to amending the discriminatory provisions of the Penal Code without delay so as to bring the Code into line with the Convention and the Committee’s general recommendations, in particular general recommendation 19 on violence against women.

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

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

163. The Committee urges the State party to continue, and to expedite, the process of legislative reform within the framework of the Royal Commission on the Personal Status Code and to amend discriminatory provisions affecting women’s rights within the family in relation to divorce and repudiation, legal guardianship and the age for guardianship in order to bring them into harmony with the Convention. The Committee urges the State party to take measures to raise the minimum age of marriage for women and men to 18 years, in line with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The Committee urges the State party to expedite the adoption of the proposed bill on nationality and to withdraw its reservation concerning article 9, paragraph 2, of the Convention. The Committee urges the State party to ensure that laws with regard to the status of women in the family as well as single mothers affirm and incorporate the principle of gender equality and partnership between women and men and the full realization of women’s human rights. The Committee encourages the State party to reform relevant existing laws in consultation with women’s groups.

- France, CEDAW, A/58/38 part II (2003) 116 at paras. 265-268.

PROTECTION OF THE FAMILY - MARRIAGE

265. The Committee is concerned that traditional customary practices, including polygamy, continue to exist in the French overseas territories, in contravention to the provisions of the Convention.

266. The Committee urges the State party to strengthen the implementation of the Convention in the French overseas territories. It also urges the State party to disseminate information on the Convention and the Optional Protocol to the Convention in the French overseas territories.

267. The Committee notes with concern that the minimum legal age of marriage is set at 15 for girls and 18 for boys.

268. The Committee urges the State party to take measures to raise the minimum legal age of marriage for girls, in order to bring it into line with article 1 of the Convention on the Rights of the Child, which defines a “child” as anyone under the age of 18 years, and with article 16, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women.

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

371. The Committee expresses concern that the Civil Code still contains discriminatory provisions, including those with respect to the minimum age for marriage, the waiting period required for women to remarry after divorce and the choice of surnames for married couples...

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

- New Zealand, CEDAW, A/58/38 part II (2003) 138 at paras. 423 and 424.

423. While recognizing the State party’s efforts to address the needs of Maori and Pacific women and girls through the “Reducing Inequalities” programme, the Committee is concerned that the situation of Maori and Pacific women and girls remains unsatisfactory in many areas, particularly with regard to employment, political participation, decision-making positions in the public and private sector, the judiciary and tertiary

PROTECTION OF THE FAMILY - MARRIAGE

education and economic independence. The Committee is also concerned about Maori and Pacific women and girls' unfavourable health situation, including their limited access to health care and their high mortality rate as well as the high incidence of domestic violence and of arranged marriages...

424. The Committee urges the State party to continue to implement the "Treaty of Waitangi" and to monitor the impact of measures taken through the "Reducing Inequalities" programme on Maori and Pacific women and girls, in particular in the social, economic and political areas and in criminal justice...

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

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

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

- Bhutan, CEDAW, A/59/38 part I (2004) 21 at paras. 115, 116, 125 and 126.

115. While acknowledging that several traditional perceptions and practices in Bhutan favour women, including with regard to inheritance, the Committee remains concerned that some traditions and stereotyped views in the country may be discriminatory of women and girls, and perpetuate sex-specific roles and responsibilities in some spheres of life. The Committee expresses concern at the continuing existence of polygamy in Bhutan.

116. The Committee urges the State party to analyse existing traditions and stereotyped views in order to assess their impact on gender equality. It recommends that policies be

PROTECTION OF THE FAMILY - MARRIAGE

developed and programmes be directed at men and women to support the elimination of stereotypes associated with traditional roles in the family, the workplace, and society at large, and to prevent the emergence of new stereotypes that are discriminatory against women. It also recommends that the media be encouraged to project a positive image of women and of the equal status and responsibilities of women and men both in the public and private spheres. The Committee recommends action by the State party to end the practice of polygamy, in accordance with the Committee's general recommendation 21, on equality in marriage and family relations.

...

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

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

- Kyrgyzstan, CEDAW, A/59/38 part I (2004) 28 at paras. 169 and 170.

169. The Committee is concerned at the continuing existence of bride abduction and polygamy, despite the legal prohibition of these practices.

170. The Committee recommends action without delay by the State party to enforce its laws penalizing these practices. The Committee also recommends that the State party take comprehensive and effective measures, including the training of the judiciary and law enforcement officials and public awareness-raising campaigns, to eliminate these practices.

- Nepal, CEDAW, A/59/38 part I (2004) 34 at paras. 198, 199, 208 and 209.

198. The Committee expresses concern that the Constitution, in contradiction to article 9 of the Convention, precludes Nepalese women from passing their nationality on to their children or to a spouse of foreign nationality.

199. The Committee urges the State party to repeal or amend article 9 of the Constitution, which permits discrimination against women in the area of citizenship.

PROTECTION OF THE FAMILY - MARRIAGE

...

208. The Committee is concerned at the continuing existence of child marriage and polygamy and other practices, including the institution of dowry, *deuki* (dedicating girls to a god and goddess), *jhuma* (in some communities, second sisters remain unmarried and spend their life in monasteries), *kumari pratha* (having a girl child as living goddess) and *badi* (ethnic practice of prostitution among young girls), that are contrary to the Convention and constitute discrimination against women. The Committee is also concerned that the enactment of the draft bill on domestic violence has been delayed indefinitely.

209. The Committee recommends action without delay by the State party to enforce its marriage laws, particularly as they relate to the prohibition of child marriage and polygamy, in the light of general recommendation 21 on equality in marriage and family relations, and urges the State party to take steps to abolish other harmful and discriminatory traditional practices, such as dowry *deuki*, *jhuma*, *kumari pratha*, and *badi*. The Committee also recommends that the State party take comprehensive and effective measures, including the training of the judiciary and law enforcement officials and public awareness-raising campaigns aimed at eliminating these practices. The Committee requests the State party to adopt immediately measures on domestic violence...

- Ethiopia, CEDAW, A/59/38 part I (2004) 42 at paras. 253 and 254.

253. The Committee, while welcoming the fact that the age of marriage has been set at 18 years for both girls and boys, is concerned about the persistence of the practice of early marriage, which may be perpetuated further by the non-registration of births.

254. The Committee recommends that the State party take measures to achieve free and timely registration of all births and undertake awareness-raising measures, throughout the country, particularly in rural areas, on the importance of registering births and the negative effects of early marriage on women's enjoyment of human rights, especially the rights to health and education.

- Nigeria, CEDAW, A/59/38 part I (2004) 49 at paras. 299 and 300.

299. The Committee expresses concern about the persistence and social acceptability of harmful traditional practices, including widowhood practices, female genital mutilation, and child and forced marriage, despite prohibitions in State or Federal legislation.

300. The Committee urges the State party to place the elimination of such practices high on

PROTECTION OF THE FAMILY - MARRIAGE

the agenda of the federal and state governments and to bring to an immediate end the apathy of law enforcement agencies with regard to the implementation of existing legislation. It calls on the State party to intensify its efforts to develop and implement a national plan of action, including public awareness-raising campaigns targeted at women and men, in order to eliminate the practice of female genital mutilation and widowhood practices. It urges the State party to ensure full compliance with the Child Rights Act, 2003, which set the statutory minimum age of marriage at 18 years in all parts of the country. The Committee encourages the State party to undertake such efforts in collaboration with civil society organizations, women's non-governmental organizations, and traditional and religious leaders, so as to build alliances and create an enabling environment for the accelerated elimination of such practices, and to achieve compliance with the Convention.

- Equatorial Guinea, CEDAW, A/59/38 part II (2004) 126 at paras. 191, 192, 195-198, 209 and 210.

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

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

...

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

PROTECTION OF THE FAMILY - MARRIAGE

primarily responsible for changing their position of disadvantage.

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

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

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

...

209. The Committee is concerned that the law relating to nationality precludes foreign women from retaining their own nationality on marriage to a national of the State party.

210. The Committee requests the State party to remove all discriminatory laws relating to nationality, in accordance with article 9 of the Convention.

- Bangladesh, CEDAW, A/59/38 part II (2004) 134 at paras. 245-250, 257 and 258.

245. The Committee expresses concern that traditional and cultural discriminatory practices, including polygamy, and strong stereotypical attitudes persist with respect to the roles and responsibilities of women in the family and society, negatively affecting women's enjoyment of their rights and impeding the full implementation of the Convention.

246. The Committee urges the State party to undertake measures to design and implement comprehensive awareness-raising programmes to change stereotypical attitudes and norms

PROTECTION OF THE FAMILY - MARRIAGE

about the roles and responsibilities of women and men in the family and society and take measures to eliminate polygamy. It also calls upon the State party to periodically review the measures taken and assess their impact in order to identify shortcomings and make necessary changes to improve them.

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

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

249. Although acknowledging that the State party has initiated the amendment of the 1951 Citizenship Act, the Committee is concerned that women are still unable to transmit their nationality to their foreign husbands and children.

250. The Committee urges the State party to ensure that a new citizenship law, which is in line with article 9 of the Convention, is adopted without delay, in order to eliminate all provisions that discriminate against women in the area of nationality.

...

257. The Committee expresses concern that although in Bangladesh the minimum age of marriage for girls is 18 years, child marriage continues to be practised widely.

258. The Committee urges the State party to enact into law the proposed Child Marriage Restraint Act, 2002 and ensure its enforcement, in order to eliminate child marriage.

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

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

PROTECTION OF THE FAMILY - MARRIAGE

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

- Lao People's Democratic Republic, CEDAW, A/60/38 part I (2005) 16 at paras. 110 and 111.

110. The Committee is concerned that the law allows marriage under the age of 18 in "special and necessary cases" and that a considerable percentage of women do marry before they reach the age of 18.

111. The Committee recommends that the State party prohibit under-age marriage in all circumstances...

- Algeria, CEDAW, A/60/38 part I (2005) 23 at paras. 143 and 144.

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

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

- Gabon, CEDAW, A/60/38 part I (2005) 37 at paras. 231, 232, 239 and 240.

231. The Committee is concerned about the persistence of discriminatory legal provisions,

PROTECTION OF THE FAMILY - MARRIAGE

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

232. The Committee urges the State party to accelerate the process of legal reform to eliminate discriminatory provisions, especially in the Civil and Penal Codes to ensure their full compliance with articles 2 and 16 of the Convention and the Committee's general recommendation 21 on equality in marriage and family relations. The Committee urges the State party to establish a concrete programme and timetable for such a reform process and to activate fully the inter-ministerial committee established for the purpose of reviewing the discriminatory aspects of the various codes. The Committee also encourages the State party to step up its efforts to increase awareness about the importance of legal reform for achieving de jure and de facto equality for women in accordance with its obligations under the Convention.

...

239. The Committee expresses its concern about the prevalence of entrenched adverse customs and traditions, including early and forced marriage, polygamy, widowhood practices and levirate, as well as the persistence of stereotypes that discriminate against women and constitute a violation of women's human rights under the Convention. The Committee is particularly concerned about the State party's limited efforts to address directly such discriminatory practices and stereotypes and its position that the current widespread support for and adherence to these practices would prevent compliance with legislative measures designed to eliminate them.

240. The Committee urges the introduction without delay, and in conformity with articles 2 (f) and 5 (a) of the Convention, of measures, including legislation, to modify or eliminate customs and cultural and traditional practices that discriminate against women, so as to promote women's full enjoyment of their human rights. The Committee calls upon the State party to develop and implement comprehensive educational measures and awareness-raising campaigns to facilitate an enhanced understanding of equality between women and men and to challenge cultural traditions and stereotypical attitudes regarding the roles and responsibilities of women in the family and society. The Committee recommends that these efforts be targeted at women and men in all segments of society, including public officials at all levels of Government, community and traditional leaders, employers and the general public. The Committee encourages the State party to undertake such efforts in collaboration with civil society and women's and human rights organizations, and to seek effective cooperation with the media, including radio and print media. It also urges the State party to

PROTECTION OF THE FAMILY - MARRIAGE

make better use of the formal education system, including through revision of school curriculums and textbooks, to further these efforts.

- Paraguay, CEDAW, A/60/38 part I (2005) 44 at paras. 281 and 282.

281. The Committee expresses concern that the minimum legal age of marriage is 16 years for both girls and boys and that such a low legal age of marriage may prevent girls from continuing their education and lead them to drop out of school early.

282. The Committee encourages the State party to take measures towards raising the minimum legal age of marriage for girls and boys with a view to bringing it into line with article 1 of the Convention on the Rights of the Child, which defines a child as anyone under the age of 18 years, and with article 16, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women.

- Democratic People's Republic of Korea, CEDAW, A/60/38 part II (2005) 101 at paras. 41, 42, 57 and 58.

41. The Committee is concerned about existing discriminatory legal provisions, particularly that which establishes a minimum marriage age for females at 17 and for males at 18, and about article 7 of the citizenship law on the determination of the citizenship of a child under the age of 14. It is also concerned about existing protective legislation, which in some cases is based on the socially perceived characteristics of women and men and which may perpetuate inequality and discrimination against women.

42. The Committee urges the State party to initiate without delay a comprehensive review of all legislation, with the aim of identifying provisions that discriminate against women, and a process of law reform to bring its laws into conformity with the provisions of the Convention.

...

57. The Committee is concerned about the practice of encouraging conciliation among spouses that apply for divorce, with the aim of protecting family unity, which could be detrimental to women who are victims of domestic violence and other forms of abuse.

58. The Committee recommends that the State party conduct a comprehensive analysis of divorce cases and encourage judges to review the utilization of conciliation and to ensure that the rights of women are duly protected. The Committee recommends gender-sensitive training for legislators, the judiciary and public officials, particularly for law enforcement personnel and health service providers. It also recommends the establishment of counselling services for victims of violence and the implementation of awareness-raising campaigns and

PROTECTION OF THE FAMILY - MARRIAGE

public education programmes.

- Benin, CEDAW, A/60/38 part II (2005) 116 at paras. 147 and 148.

147. While welcoming the adoption of the Personal and Family Code in 2004, aimed at eliminating discrimination against women and abolishing many discriminatory provisions of the customary law of Dahomey, including polygamy, levirate marriage and discrimination in inheritance rights and the age of marriage, the Committee remains concerned about the application of customary practices and the consequences thereof. It is also concerned about the prevalence of structural patriarchal attitudes and deep-rooted stereotypes that may undermine the effectiveness of the Code and prevent compliance with its provisions...The Committee is concerned about the status of marriages concluded prior to the Code's coming into force.

148. The Committee calls upon the State party to develop and implement comprehensive educational measures and awareness-raising campaigns on the provisions of the Personal and Family Code and on other laws designed to eliminate discrimination against women, so as to achieve full compliance with their provisions. It also urges the State party to ensure that the polygamous marriages concluded prior to the entry into force of the new Code enjoy the same rights and benefits provided for in the new Code. The Committee recommends that those efforts be undertaken in combination with educational programmes designed to raise awareness and challenge discriminatory harmful customs, traditions, practices and stereotypical attitudes regarding the roles and responsibilities of women in the family and society, as required under articles 2 (f) and 5 (a) of the Convention. The Committee encourages the State party to undertake these efforts in collaboration with civil society and women's and human rights organizations, and to target women and men in all segments of society, including public officials at all levels of government, community and traditional leaders, employers and the general public.

- Gambia, CEDAW, A/60/38 part II (2005) 122 at paras. 189, 190, 209 and 210.

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

190. The Committee calls upon the State party to amend section 33 (5) of its 1997 Constitution, which explicitly exempts from prohibition of discrimination on grounds of

PROTECTION OF THE FAMILY - MARRIAGE

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

...

209. While welcoming the adoption of the Children's Act, which includes provisions against child marriage and child betrothal, the Committee expresses concern about the high incidence of early marriage in the country.

210. The Committee urges the State party to ensure the implementation of the Children's Act and to undertake awareness-raising measures throughout the country on the negative effects of early marriage on women's enjoyment of their human rights, especially the rights to health and education.

- Israel, CEDAW, A/60/38 part II (2005) 129 at paras. 253, 254, 261 and 262.

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

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

...

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

262. The Committee urges the State party to take active measures to enforce the prohibition of polygamy and enforce adherence to the minimum age of marriage. The Committee recommends that the State party take comprehensive and effective measures, including

PROTECTION OF THE FAMILY - MARRIAGE

public awareness-raising campaigns, aimed at eliminating the practices of polygamy and early-age marriage.

- Guyana, CEDAW, A/60/38 part II (2005) 136 at paras. 289 and 290.

289. The Committee is concerned about...the Married Persons Property Act that prevents non-working spouses from acquiring the same rights in matters of division of property and disproportionately affects women.

290. The Committee urges the State party to undertake comprehensive legal reform in accordance with its obligations under the Convention and, in particular, to eliminate discriminatory provisions without delay in the Criminal Law (Offenses) Act and civil law so as to ensure full compliance with articles 2 and 16 of the Convention...

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

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

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

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

342. The Committee calls upon the State party to take all necessary measures to ensure full compliance with the provisions of the Convention, the Individual and Family Code, the Penal Code and other laws in regard to harmful traditional or customary practices that violate

PROTECTION OF THE FAMILY - MARRIAGE

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

CRC

- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 48 and 49.

48. The Committee notes that the newly adopted Personal Status Code sets the minimum age for marriage at 18...

49. In light of articles 1 and 2 of the Convention, the Committee recommends that the State party ensure that the minimum age for marriage is fully enforced in practice, and that the population is aware of its existence, in order to bring an end to the practice of early marriage of girls...

- Kenya, CRC, CRC/C/111 (2001) 21 at paras. 103, 104, 128 and 129.

103. The Committee is concerned about the various legal minimum ages which are inconsistent, discriminatory and/or too low...

104. The Committee recommends the State party take the necessary legislative measures:

...

(b) To correct the disparity between the legal minimum ages for marriage of boys and girls, preferably by increasing the legal minimum age for marriage of girls under the Marriage Act (Laws of Kenya, chap. 150) and the Hindu Marriage and Divorce Act (Laws of Kenya, chap. 157);

PROTECTION OF THE FAMILY - MARRIAGE

(c) To establish clear minimum ages for marriage under Islamic and customary laws, employment, especially with respect to apprenticeship programmes, and compulsory education.

...

128. The Committee is deeply concerned that female genital mutilation (FGM) is not prohibited by law and is still widely practised in the State party. Concern is also expressed about the persistent practice of other harmful traditional practices, including early and forced marriages.

129. The Committee recommends that the State party take legislative and awareness-raising measures to prohibit and eradicate the practice of FGM and other traditional practices harmful to the health, survival and development of children, boys as well as girls. The Committee urges the State party to introduce sensitization programmes for practitioners and the general public to change traditional attitudes and discourage harmful practices.

- Qatar, CRC, CRC/C/111 (2001) 59 at paras. 291 and 292.

291. The Committee is concerned that the minimum ages for marriage and employment are unclear under Qatari law.

292. The Committee recommends that the State party review its legislation so that the minimum-age requirements for marriage and employment conform to the principles and provisions of the Convention, are gender neutral and are explicit, and ensure that they are enforced by law.

- Cameroon, CRC, CRC/C/111 (2001) 71 at paras. 348 and 349.

348. The Committee is concerned at the difference between the minimum legal ages for marriage of boys (18 years) and that of girls (15 years), which is gender discriminatory and allows for the practice of early marriage, which is still widespread...

349. The Committee recommends that the State party:

(a) Raise the minimum age for marriage to 18 for both boys and girls; and develop sensitization programmes involving community leaders and society at large, including children themselves, to curb the practice of early marriage;

...

See also:

- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 196 and 197.

PROTECTION OF THE FAMILY - MARRIAGE

- Gambia, CRC, CRC/C/111 (2001) 89 at paras. 421, 422, 442, 443, 446 and 447.

421. The Committee is concerned that there is no clear legal definition of the child in the State party and that various legal minimum ages which are inconsistent with the Convention, discriminatory and/or too low have been set.

422. With reference to paragraph 60 of the State party's initial report, the Committee encourages the State party to take the necessary legislative measures:

...

(b) To set the legal minimum age for marriage of girls and boys at 18 years;...

...

442. The Committee expresses its concern with respect to the limited availability of programmes and services and the lack of adequate data in the area of adolescent health, violence, suicides, mental health, alcohol and substance abuse, and, especially, early and forced marriage and early pregnancy and STDs.

443. The Committee...recommends that the State party undertake awareness-raising campaigns to discourage early and forced marriages...

...

446. While the Committee notes the launch in March 1997 of the First National Action Plan for the Eradication of Female Genital Mutilation, it remains concerned that female genital mutilation (FGM) is not prohibited by law and is still widely practised in the State party. Concern is also expressed about the persistent use of other harmful traditional practices, including early, consanguine and forced marriages.

447. The Committee recommends that the State party take legislative and awareness-raising measures to combat and eradicate the persistent practice of FGM and other traditional practices harmful to the health, survival and development of children, especially girls. The Committee urges the State party to introduce sensitization programmes for practitioners and the general public to encourage change in traditional attitudes and discourage harmful practices.

See also:

- Ukraine, CRC, CRC/C/121 (2002) 70 at paras. 318 and 319.

- Uzbekistan, CRC, CRC/C/111 (2001) 117 at paras. 545 and 546.

545. Noting that a person reaches the age of majority at 18 years under the 1996 Civil Code, the Committee is concerned about:

PROTECTION OF THE FAMILY - MARRIAGE

...

Differences in the minimum age for marriage of males and females under the 1998 Family Code;

The inadequate enforcement of minimum-age standards (i.e. with respect to early marriage, purchase of alcohol, etc.).

546. The Committee recommends that the State party review its legislation so that the definition of the child and minimum-age requirements conform to the principles and provisions of the Convention, are gender neutral, are explicit and are effectively enforced by law.

- Lebanon, CRC, CRC/C/114 (2002) 11 at paras. 50, 51, 73 and 74.

50. Noting the average age at which a marriage is concluded (31 years for men and 28 years for women), the Committee is nevertheless concerned that there are many different minimum ages for marriage owing to the existence of 15 personal status laws administered by different confessional groups, and above all that some confessional groups permit marriage to be entered into by boys as young as 14 and girls as young as 9. The Committee is concerned in particular that its previous recommendations to review the minimum age for marriage and to adopt legislative measures with a view to ensuring respect for the rights of girls, especially in relation to preventing early marriage, have not been followed up ([CRC/C/15/Add.54], para. 28)...

51. The Committee recommends that the State party:

(a) Take all necessary steps to increase awareness among the confessional groups - e.g. via information campaigns highlighting the *de facto* average age of marriage - about the need to harmonize the minimum age for marriage, to raise it and to make it the same for boys as for girls;

...

73. ...[T]he Committee...notes with deep concern that one in every five married women is married to her maternal or paternal cousin or another relative, and that 30 per cent of disabled children are born to consanguineous marriages.

74. The Committee recommends that the State party:

...

(b) To disseminate information on the risks to the health of children born to consanguineous marriages and encourage premarital testing.

PROTECTION OF THE FAMILY - MARRIAGE

- Gabon, CRC, CRC/C/114 (2002) 47 at paras. 209 and 210.

209. The Committee is concerned at the large number of single-parent families headed by women - many of them are not able to raise their children for financial reasons - and at the existence of polygamy which may, as acknowledged by the State party (para. 178 of its report), negatively affect the upbringing and development of the child.

210. The Committee recommends that the State party:

...

(b) Undertake an in-depth and comprehensive study on the impact of polygamy with a view to finding out whether polygamy has negative consequences on the upbringing and development of the child and, on the basis of the results of this study, develop measures to address any negative impacts on the realization of the rights of the child within the family.

- Mozambique, CRC, CRC/C/114 (2002) 65 at paras. 299 and 300.

299. While noting the State party's efforts to establish the "Adolescent and Youth Programme", the Committee remains concerned at:

...

(c) The high incidence of early marriage of girls.

300. The Committee recommends that the State party:

...

(c) Make every effort to prevent the early marriage of children, particularly girls.

- Chile, CRC, CRC/C/114 (2002) 90 at paras. 346 and 347.

346. The Committee expresses its concern at the low minimum age for marriage (12 years of age for girls and 14 for boys with the parents' consent), although this provision is outdated and not implemented in practice...

347. The Committee recommends that the State party review its legislation with a view to making the minimum age for marriage of girls the same as that for boys and to bring it into full conformity with the provisions and principles of the Convention...

- Malawi, CRC, CRC/C/114 (2002) 104 at paras. 397, 398, 428 and 429.

397. The Committee is concerned about the various legal minimum ages, which are

PROTECTION OF THE FAMILY - MARRIAGE

inconsistent, discriminatory and/or too low...

398. The Committee recommends that the State party take the necessary legislative measures:

...

(c) To establish clear minimum ages for marriage and correct the discrimination between boys and girls;

...

428. The Committee is concerned at the persistence of harmful traditional practices, including early and forced marriages.

429. The Committee recommends that the State party take legislative and awareness-raising measures to prohibit and eradicate traditional practices harmful to the health, survival and development of children, boys as well as girls. The Committee urges the State party to introduce sensitization programmes with the involvement of community leaders for practitioners and the general public to change traditional attitudes and discourage harmful practices, in particular in rural areas.

See also:

- Niger, CRC, CRC/C/118 (2002) 37 at paras. 177 and 178.

- Bahrain, CRC, CRC/C/114 (2002) 122 at paras. 470 and 471.

470. The Committee is concerned that there is no defined minimum age for marriage, and that there are inconsistencies in other areas of Bahraini law with respect to minimum ages.

471. The Committee recommends that the State party:

(a) Continue to review, and accordingly take steps to amend, its legislation so that the minimum-age requirements are gender neutral, are explicit, and are enforced by law; and, in particular,

(b) Establish a minimum age for marriage which is the same for males and females.

- Andorra, CRC, CRC/C/114 (2002) 134 at paras. 524 and 525.

524. The Committee notes with concern that the low minimum age for marriage is 16 years of age, 14 years of age with a judge's permission.

525. The Committee recommends that the State party review its legislation with a view to

PROTECTION OF THE FAMILY - MARRIAGE

increasing the minimum age of marriage.

- Guinea-Bissau, CRC, CRC/C/118 (2002) 12 at paras. 49, 50, 72 and 73.

49. The Committee is concerned that:

(a) Differences in the minimum legal age of marriage for girls (14) and boys (16) is discriminatory and that, in practice, the marriage of girls at age 13 or 14 is common;

...

50. The Committee recommends that the State party:

(a) Raise the minimum legal age of marriage of girls so that it is the same as for boys and enforce respect for this minimum age;

...

72. Noting the work undertaken to address female genital mutilation and other harmful practices, including through international cooperation, the Committee remains deeply concerned that:

(a) As indicated in the State party's report, the early marriage of girls - often around the age of 13 or 14 - is common (see report, para.33) and can lead to poor health for girls;

...

73. The Committee recommends that the State party:

(a) Make every effort to combat practices involving the early marriage of girls, including through the involvement of community leaders and the use of education campaigns;

...

- Niger, CRC, CRC/C/118 (2002) 37 at paras. 148, 149 and 161-164.

148. The Committee is concerned at the difference between the minimum legal age for marriage of boys (18 years) and that of girls (15 years), which is gender discriminatory. The Committee is also concerned at the fact that the Civil Code is rarely applied in this regard and that girls can marry at a much earlier age according to customary law, which leads to a widespread practice of early marriage and early pregnancy...

149. The Committee recommends that the State party set the same minimum age for marriage for girls and boys by increasing the minimum age for girls and develop sensitization programmes involving traditional and religious leaders, and society at large, including children themselves, to curb the practice of early marriage...

...

PROTECTION OF THE FAMILY - MARRIAGE

161. The Committee is concerned at the breakdown of family structures, notably in suburban areas, due to large families, the existence of polygamy, and lack of education, poverty and unemployment which negatively affect the upbringing and development of the child, particularly in the many larger families.

162. The Committee recommends that the State party take all necessary measures to reinforce the capacities of families, especially families in the most precarious situation, in order to support them in bringing up their children, in the light of article 18.2 of the Convention, and to emphasize the role of fathers in that regard. In addition, the Committee recommends that the State party raise awareness in society at large concerning forced marriage and undertake a study to assess the effect of polygamy on the upbringing and development of the child.

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

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

- Saint Vincent and the Grenadines, CRC, CRC/C/118 (2002) 101 at paras. 428 and 429.

428. The Committee is concerned that:

...

(b) The difference in the minimum legal age of marriage for girls (15) and boys (16) is discriminatory and both ages are low.

429. The Committee recommends that the State party:

...

(b) Raise the minimum legal age of marriage of girls to the one of boys (16).

- Argentina, CRC, CRC/C/121 (2002) 8 at paras. 50 and 51.

50. The Committee reiterates its concern at the disparity between the ages of marriage for

PROTECTION OF THE FAMILY - MARRIAGE

boys and girls in Argentine law ([CRC/C/15/Add.36], para. 10).

51. In light of articles 1 and 2 and other related provisions of the Convention, the Committee recommends that the State party review its legislation with a view to increasing the minimum age of marriage of girls to that of boys.

See also:

- Seychelles, CRC, CRC/C/121 (2002) 41 at paras. 180 and 181.
- Republic of Moldova, CRC, CRC/C/121 (2002) 89 at paras. 393 and 394.

- Burkina Faso, CRC, CRC/C/121 (2002) 103 at paras. 448 and 449.

448. The Committee is concerned at the practice of forced and early marriage, which is still widespread...

449. The Committee recommends that the State party:

(a) Ensure respect for the minimum age of marriage set up in the Code of the Individual and the Family (art. 238) and amend article 376 of the Penal Code in that regard, and develop sensitization programmes involving community and traditional leaders and society at large, including children themselves, to curb the practice of early and forced marriage;

...

- Republic of Korea, CRC, CRC/124 (2003) 24 at paras. 105 and 106.

105. The Committee remains concerned about the difference in the minimum age of marriage of girls (16) and boys (18).

106. The Committee reiterates its previous recommendation to the State party that it raise the minimum age of marriage of girls to that of boys.

- Romania, CRC, CRC/124 (2003) 49 at paras. 219 and 220.

219. The Committee is concerned that, despite its previous recommendation (CRC/C/15/Add.16, para. 8), and the concerns expressed by the Committee on the Elimination of Discrimination against Women (CEDAW) (A/55/38, para. 318), the disparity in the minimum age of marriage for boys (18 years) and girls (16 years, and exceptionally 15) is discriminatory.

PROTECTION OF THE FAMILY - MARRIAGE

220. The Committee reiterates its previous recommendation to the State party to raise the minimum age of marriage for girls to that of boys...

- Eritrea, CRC, CRC/C/132 (2003) 8 at paras. 42, 43, 69 and 70.

42. The Committee notes with appreciation that both the Transitional Civil Code of Eritrea and the draft Civil Code define children as all persons under the age of 18, and that the Constitution states that men and women of full legal age shall have the right, upon their consent, to marry and found a family freely. Nevertheless, the Committee is concerned that customary law does not have the same minimum age of marriage, and in practice many children are married between the ages of 13 and 15.

43. The Committee recommends that the State party develop sensitization programmes involving community, traditional and religious leaders as well as society at large, including children themselves, to enforce legislation and curb the practice of early marriage.

...

69. While the Committee notes with appreciation the adoption of a strategy to eliminate female genital mutilation (FGM), it is very concerned at the widespread practice of FGM, which affects almost 90 per cent of girls in the State party. It is also concerned about other harmful traditional practices, including early marriage, which contributes to the high rate of maternal mortality.

70. The Committee recommends that the State party continue to strengthen the implementation of its Strategy to Eliminate Female Genital Mutilation (1999) and undertake legislative reform to expressly prohibit the practice. It also recommends that the State party undertake similar educational and awareness programmes, in cooperation with NGOs and community leaders, with regard to other harmful traditional practices such as early marriage.

- Solomon Islands, CRC, CRC/C/132 (2003) 58 at paras. 302 and 303.

302. The Committee is concerned at the many inconsistencies in the minimum ages used in various areas of the law, and notes in particular that:

...

(b) The age of marriage is too low (15 years), especially since no birth certificate or any other official document is required for marriage and marriage can take place upon visual presumption of the applicant's age;

...

303. The Committee recommends that the State party:

...

(b) Raise the age of marriage and require official documentation to be presented for official

PROTECTION OF THE FAMILY - MARRIAGE

matters, e.g. marriage and employment;

...

- Pakistan, CRC, CRC/C/133 (2003) 37 at paras. 195, 196, 210, 211, 222 and 223.

195. While acknowledging the actions taken to address discrimination against girls in education, the Committee is concerned at the persistence of discriminatory social attitudes and discrimination against minority children and against girls, early and forced marriages, low school enrolment and high dropout rates, honour killings, mutilation and violence...

196. The Committee recommends that the State party:

(a) Make greater efforts to ensure that, in accordance with article 2, all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, particularly girl children, children belonging to a religious or other minority group, children with disabilities and other vulnerable groups of children;

...

210. The Committee is concerned that the State party's legislation uses age limits, instead of the best interests of the child, as criteria in determining custody in case of divorce. Such permission, in addition to implying that siblings can be separated, discriminates between the sexes and fails to acknowledge the child's right to express her/his views and have them taken into account.

211. The Committee recommends that the State party review its current legislation concerning custody in order to ensure that the principle of the best interests of the child is a primary consideration, in order to prevent siblings being separated only because of sex and/or age, and in order to ensure that children's views are heard and duly taken into consideration in custody decisions, in accordance with the principles and provisions of the Convention.

...

222. The Committee reiterates its concern at the existence of harmful traditional practices, including forced and/or early child marriages and dowry-related violence, which pose very serious threats to children, and emphasizes the lack of interventions on the part of the State party to address these issues.

223. The Committee recommends that the State party, as a matter of urgency, take all necessary measures to eradicate all traditional practices harmful to the physical and psychological well-being of children, which affect the girl child in particular.

- Madagascar, CRC, CRC/C/133 (2003) 56 at paras. 274 and 275.

PROTECTION OF THE FAMILY - MARRIAGE

274. The Committee is concerned at the practice of early marriage, which is still widespread in some provinces, and different minimum ages for marriage for boys and girls.

275. The Committee recommends that the State party amend article 3 of Ordinance 62-089 of 1 October 1962 on marriage, which allows girls to marry from the age of 14, and increase this minimum age to that of boys, and develop sensitization programmes involving community and religious leaders and society at large, including children themselves, to eliminate the practice of early marriage.

- Brunei Darussalam, CRC, CRC/C/133 (2003) 73 at paras. 363 and 364.

363. The Committee notes the existence of a premarital course for every couple prior to their marriage.

364. The Committee recommends that the State party uses this premarital course to include teaching about the principles and provisions of the Convention.

- Bangladesh, CRC, CRC/C/133 (2003) 93 at paras. 458, 459, 493 and 494.

458. The Committee is concerned about the various legal minimum ages, which are inconsistent, discriminatory and/or too low. The Committee is also deeply concerned at the fact that the Majority Act 1875, setting the age of majority at 18 years, has no effect “on the capacity of any person in relation to marriage, dowry, divorce and adoption or on the religion and religious customs of any citizen” (CRC/C/65/Add.22, para. 45)...

459. The Committee strongly recommends that the State party:

...

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

...

493. The Committee is deeply concerned at the existence of harmful traditional practices, such as child marriages and dowry-related violence, which are widespread and pose very serious threats, in particular to the girl child.

494. The Committee recommends that the State party continue and intensify its efforts to eradicate harmful traditional practices, by strengthening awareness-raising programmes and enforcement of the law.

PROTECTION OF THE FAMILY - MARRIAGE

- Indonesia, CRC, CRC/C/137 (2004) 8 at paras. 46 and 47.

46. The Committee is concerned that:

(a) Despite the Committee's previous recommendation, the legal age of marriage of females (16) and males (19) is still discriminatory;

(b) A very large proportion of children, especially girls, are married by the age of 15, and that they are thereby legally considered to be adults, meaning that the Convention no longer applies to them.

47. The Committee recommends that the State party review the age limits affecting children set by different legislation in order to ensure that they conform to the principles and provisions of the Convention. The Committee also specifically recommends that the State party:

(a) Ensure that no discrimination based on sex remains, and that the age of marriage for girls is the same age as that for boys;

(b) Take all other necessary measures to prevent early marriage;

(c) Undertake awareness-raising campaigns on the harm and danger resulting from early marriage.

- India, CRC, CRC/C/137 (2004) 75 at paras. 438 and 439.

438. The Committee is concerned at the very high percentage of early and forced marriages of girls, which can have a negative impact on their health, education and social development.

439. The Committee recommends that the State party:

(a) Take all necessary steps to implement the Child Marriage Restraint Act 1929;

(b) Strengthen educational and awareness programmes, in cooperation with NGOs [nongovernmental organizations] and community leaders, with a view to preventing early and forced marriage; and

(c) Strengthen sexual and reproductive health education, mental health and adolescent-sensitive counselling services and make them accessible to adolescents.

PROTECTION OF THE FAMILY - MARRIAGE

- El Salvador, CRC, CRC/C/140 (2004) 8 at paras. 45 and 46.

45. The Committee expresses its concern that the Family Code allows marriage to be contracted by children as young as 14 years of age, who have reached puberty or have had a child together or if the girl is pregnant.

46. The Committee recommends that the State party review the rules regarding the possibility of concluding a marriage below the general minimum age of 18 years, with a view to increasing the minimum age for this exception and set them at the same level for boys and girls. This should be accompanied by awareness-raising campaigns and other measures to prevent early marriages.

See also:

- Panama, CRC, CRC/C/140 (2004) 23 at paras. 114 and 115.

- Sao Tome and Principe, CRC, CRC/C/140 (2004) 54 at paras. 287 and 288.

287. The Committee is concerned at the practice of early marriages.

288. The Committee recommends that the State party take all necessary measures to prevent and reduce all forms of early marriages, including by undertaking awareness-raising campaigns concerning the various kinds of damage and negative consequences resulting from early marriages.

- Liberia, CRC, CRC/C/140 (2004) 67 at paras. 352 and 353.

352. The Committee notes with concern that, according to the New Domestic Relations Law, the minimum legal age for marriage is 21 for males and 18 for females, while according to the Revised Administrative Law Governing the Hinterland this age-limit is of 15 years only. The Committee is concerned that in practice, the custom of early marriage is widespread, particularly for girls in rural areas who can get married as early as 12 or 13 years old. The Committee is further concerned that such girls, once married, are not afforded protection and that the enjoyment of their rights as children is not ensured as enshrined in the Convention.

353. The Committee recommends that the State party amend the Revised Administrative Law Governing the Hinterland by raising the age of marriage to similar ages defined in the New Domestic Relations Law in order to prevent early marriages. It also recommends to the State party that it take measures to ensure that when under age girls are married, they continue fully enjoying their rights as set out in the Convention. The Committee also recommends that the State party develop sensitization programmes, involving community

PROTECTION OF THE FAMILY - MARRIAGE

and religious leaders and society at large, including children themselves, to curb the practice of early marriages.

- Myanmar, CRC, CRC/C/140 (2004) 81 at paras. 399 and 400.

399. The Committee...is concerned that there is no minimum age for marriage for boys and that marriage of girls as young as 14 is allowed with parental consent.

400. ...The Committee...recommends that the State party raise the minimum age for marriage for girls to an internationally acceptable age.

- France, CRC, CRC/C/140 (2004) 124 at paras. 595 and 596.

595. ...The Committee...reiterates its concern that national legislation establishes a different minimum age for marriage for girls (15 years), and for boys (18 years). In addition to discrimination based on sex and effects it may have on the survival and development of young girls, such legislation makes the combating of forced marriages more difficult.

596. The Committee...recommends that the State party consider reviewing the minimum age for marriage with a view to raising the age for girls to that for boys, creating conditions conducive to countering forced marriages and ensuring to the maximum extent possible the development of the child.

- Equatorial Guinea, CRC, CRC/C/143 (2004) 64 at paras. 332 and 333.

332. The Committee notes that the State party's legislation sets 18 years old as the age of majority, but is concerned about the application of the Spanish laws from before 1968 with regard to the minimum legal age for criminal responsibility and marriage. It is also concerned about the young age at which girls can marry according to traditional customs and about the high number of girls who do marry early.

333. The Committee recommends that the State party review the age limits set by different legislation affecting children, in particular the Spanish laws from before 1968, to fully ensure that they are in conformity with the principles and provisions of the Convention. The Committee also recommends that the State party take all necessary measures to prevent illegal, early and/or forced marriages.

- Belize, CRC, CRC/C/146 (2005) 59 at paras. 315 and 316.

PROTECTION OF THE FAMILY - MARRIAGE

315. The Committee is deeply concerned about the practice of early marriages and the low minimum age for marriage (14 years)...

316. The Committee recommends that the State party continue and strengthen its efforts:

...

(c) To raise the minimum legal age of marriage for both girls and boys and to undertake awareness-raising campaigns concerning the many very negative consequences resulting from early marriages in order to reduce and prevent this practice;

...

- Islamic Republic of Iran, CRC, CRC/C/146 (2005) 88 at paras. 457, 458, 505 and 506.

457. The Committee reiterates its deep concern that the age of majority is set at pre-defined ages of puberty for boys at 15 and for girls at 9, because it implies that boys from 15 to 18 years and girls from 9 to 18 years are not covered by the provisions and principles of the Convention. The Committee notes the increase in the age of marriage for girls from 9 to 13 years (while that of boys remains at 15) and is seriously concerned at the very low minimum ages and the related practice of forced, early and temporary marriages.

458. The Committee urges the State party to review its legislation so that the age of majority is set at 18 years of age and that minimum age requirements conform with all the principles and provisions of the Convention and with internationally accepted standards, and in particular that they are gender neutral, in the best interests of the child, and ensure that they are enforced. It should also take the necessary steps to prevent and combat forced, early and temporary marriages.

...

505. The Committee is concerned about reports of trafficking and sale of persons under 18 years of age, particularly young girls from rural areas, facilitated by “temporary marriages” (*siqueh*) - marriages which last from 1 hour to 99 years. It is also concerned at reports of the trafficking of such persons from Afghanistan to Iran, who are apparently sold or sent by their families in Afghanistan for exploitation, including cheap labour.

506. Considering that the sale and trafficking of children is a criminal offence, the Committee recommends that the State party take all appropriate legislative and administrative measures, to prevent and eliminate this phenomenon and to ensure that traffickers are prosecuted, convicted and punished.

- Togo, CRC, CRC/C/146 (2005) 104 at paras. 569 and 570.

PROTECTION OF THE FAMILY - MARRIAGE

569. The Committee welcomes the promulgation of Act No. 98-106 prohibiting female genital mutilation. However, the Committee is deeply concerned at its persistence along with other practices harmful to the health of children, particularly the girl child, including forced and early marriages, dowry disputes, initiation rites such as scarification, and rites regarding girls training in voodoo priesthood.

570. While noting the measures taken to combat harmful traditional practices, the Committee recommends that the State party:

...

(b) Strengthen existing measures and adopt further measures, including by establishing and implementing international and bilateral agreements and programmes with neighbouring States and by working with traditional and religious leaders, to ensure that harmful traditional practices are effectively banned;

(c) Using the media, raise awareness within the family and extended family and among traditional and religious leaders of the harmful impact of female genital mutilation and other harmful traditional practices on the psychological and physical health and welfare of the girl child as well as her future family;

...

- Bolivia, CRC, CRC/C/146 (2005) 121 at paras. 616 and 617.

616. While welcoming the abandoning of the use of a biological criterion for puberty and the age of maturity, in line with its previous recommendations (CRC/C/15/Add.95, para. 16), the Committee is concerned at the low legal minimum age for contracting marriage and that different minimum legal ages for marriage are set for girls (14) and boys (16).

617. The Committee recommends that the State party set the minimum age for marriage for girls and for boys at a higher and equal level. The State party is also advised to undertake awareness-raising campaigns and other measures to prevent early marriages.

- Nigeria, CRC, CRC/C/146 (2005) 135 at paras. 718 and 719.

718. While acknowledging that the minimum age of marriage is set federally at 18 years, the Committee notes with concern that the legislation of most states and the customary law allows for early marriages, and girls can be forced into marriage as soon as they reach puberty. The Committee is particularly concerned at the reports of a large number of young women suffering cases of vesico-vaginal fistula, a condition caused by giving birth when the cervix is not well developed. The Committee is further concerned that such girls, once married, are not afforded protection and that the enjoyment of their rights as children is not

PROTECTION OF THE FAMILY - MARRIAGE

ensured as enshrined in the Convention.

719. The Committee recommends that the State party amend existing legislation to prevent early marriages. It also recommends to the State party that it take measures to ensure that when underage girls are married, they continue fully enjoying their rights as set out in the Convention. The Committee also recommends that the State party develop sensitization programmes, involving community and religious leaders and society at large, including children themselves, to curb the practice of early marriages.

- Nepal, CRC, CRC/C/150 (2005) 66 at paras. 317, 318, 346 and 347.

317. With reference, *inter alia*, to the concerns of the Committee on the Elimination of Racial Discrimination (CERD/C/64/CO/5) regarding the persistent *de facto* caste-based discrimination against *Dalit* in education, employment, marriage, access to public places including water sources and places of worship, the Committee expresses serious concern about the harmful effects of this prevailing form of discrimination on the physical, psychological and emotional well-being of the *Dalit* children in the State party.

318. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the right to non-discrimination, and to adopt appropriate legislation, where necessary, to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. In this regard, the Committee urges the State party to prioritize and target social services for children belonging to the most vulnerable groups, and to take all effective measures to ensure their protection from exploitation. The Committee encourages the State party to launch comprehensive public information campaigns to prevent and combat all forms of discrimination.

...

346. While acknowledging that the minimum age of marriage for girls is 18 years, the Committee shares the concern of the State party that the custom of early marriage is widespread in practice, in particular within certain ethnic and religious communities, and that girls, once married, are not afforded the protection for the enjoyment of their rights as children as enshrined in the Convention, including the right to education.

347. The Committee recommends that the State party strengthen its enforcement of the existing legislation to prevent early marriage and that the State party develop sensitization programmes, involving community and religious leaders and society at large, including children themselves, to curb the practice of early marriage. It also recommends to the State party that it take measures to ensure that when underage girls are married, they continue to fully enjoy their rights as set out in the Convention, including the right to education.

PROTECTION OF THE FAMILY - MARRIAGE

- Yemen, CRC, CRC/C/150 (2005) 161 at paras. 760, 761, 778, 789 and 790.

760. The Committee is concerned about the legislative inconsistency concerning the definition of a child and in particular the difference between age of majority, 18 years, and age of maturity, 15. The Committee is further concerned at the minimum age for marriage for girls, 15, and that some may even get married earlier, as young as 12, due to the lack of law enforcement.

761. The Committee recommends that the State party ensure that all persons below 18 years of age receive the same protection under the Convention. The Committee further recommends that the State party take the necessary measures to prevent marriages at a very young age and increase the legal age of marriage to an internationally acceptable level.

...

778. The Committee...recommends that the State party undertake an in-depth and comprehensive study on the impact of polygamy with a view to finding out whether polygamy has negative consequences on the upbringing and development of the child and, if so, to develop measures to address those negative impacts.

...

789. While taking note of the efforts made by the State party to address the issue of female genital mutilation (FGM) and harmful traditional practices, the Committee reiterates its concern at the existence of harmful traditional practices in certain regions of the State party, including FGM, early marriages and deprivation of education.

790. The Committee recommends that the State party, as a matter of urgency, undertake all necessary measures to eradicate harmful traditional practices, particularly those affecting the girl child, and those harmful to the physical and psychological well-being of children.