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IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Denmark, CERD, A/57/18 (2002) 27 at para. 113.

113. With respect to Greenland, the Committee welcomes the establishment of the Commission on Self-Government, *inter alia*, to submit proposals for amending the Home Rule Act..

- Hungary, CERD, A/57/18 (2002) 63 at para. 370.

370. The Committee reiterates, in particular, its satisfaction with the promulgation and implementation of Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, which recognizes 13 minorities and provides them with a degree of cultural autonomy, as well as a wide range of educational and linguistic rights, and sets up a system of minority self-governments.

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

59. While welcoming the sincerity with which the State party recognizes the existence of *de facto* discrimination against indigenous people, Afro-Ecuadorians and members of other minorities, the Committee is concerned that a disproportionately high percentage of persons belonging to ethnic minority groups often do not enjoy equal access to the labour market, land and means of agricultural production, health services, education and other facilities and, accordingly, a disproportionately high percentage of members of these groups live in poverty. The Committee urges the State party to intensify its efforts to raise the living standards of these groups, with a view to ensuring their full enjoyment of the economic, social and cultural rights enumerated in article 5 of the Convention...

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62. As to the exploitation of the subsoil resources of the traditional lands of indigenous communities, the Committee observes that merely consulting these communities prior to exploiting the resources falls short of meeting the requirements set out in the Committee's general recommendation XXIII on the rights of indigenous peoples. The Committee therefore recommends that the prior informed consent of these communities be sought, and that the equitable sharing of benefits to be derived from such exploitation be ensured...

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

335. The Committee commends the State party's efforts aimed at ensuring that members of the indigenous peoples - which, according to the 2001 census, represent 61.8 per cent of the whole population - are free and equal in dignity and rights and free from any discrimination, including legal provisions aimed at recognizing the title to and ownership of land of indigenous groups and individuals as well as the right to exclusive benefit of renewable natural resources situated on their lands. In this respect, the Committee especially welcomes the establishment of the Agrarian Court.

339. While welcoming the State party's efforts aimed at ensuring the enjoyment and exercise of the rights of indigenous peoples through the adoption of constitutional, legal and institutional reforms, the Committee notes with concern the information received on the issue of indigenous lands allegedly allotted to private companies, especially in the communities of Chiquitano, Beni and Santa Cruz.

The Committee invites the State party to implement consistently in practice the commendable legislation it adopted in order to recognize the fundamental rights of indigenous peoples and to improve their living conditions. In this regard, the Committee draws the attention of the State party to its general recommendation XXIII which, *inter alia*, calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.

- Finland, CERD, A/58/18 (2003) 69 at para. 405.

405. While the Committee notes the continuous efforts undertaken by the State party to solve the issue of Sami land rights, it regrets that the problem has not yet been resolved and that Finland has so far not adhered to International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Committee draws the State party's attention to general recommendation XXIII on the rights of indigenous peoples which, *inter alia*, calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

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- Norway, CERD, A/58/18 (2003) 79 at para. 481.

481. The Committee is concerned that the recently proposed Finnmark Act will significantly limit the control and decision-making powers of the Sami population over the right to own and use land and natural resources in Finnmark County. The Committee draws the attention of the State party to its general recommendation XXIII on the rights of indigenous peoples which, *inter alia*, calls upon the State party to recognize and protect the right of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

The Committee recommends that the State party find an adequate solution concerning the control and decision-making powers over the right to land and natural resources in Finnmark County in agreement with the Sami people.

- Brazil, CERD, A/59/18 (2004) 14 at para. 60.

60. While the Committee takes note of the State party's objective to complete the demarcation of indigenous lands by 2007 and considers it an important step towards securing the rights of indigenous peoples, it remains concerned at the fact that effective possession and use of indigenous lands and resources continues to be threatened and restricted by recurrent acts of aggression against indigenous peoples.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee recommends that the State party complete the demarcation of indigenous lands by 2007. Furthermore, the Committee recommends that the State party adopt urgent measures to recognize and protect, in practice, the right of indigenous peoples to own, develop, control and use their lands, territories and resources...

- Nepal, CERD, A/59/18 (2004) 24 at para. 128.

128. The Committee regrets the general paucity of information regarding the implementation of the Convention in relation to the enjoyment of all human rights by the indigenous peoples of Nepal. The Committee is also concerned over allegations of forced relocation and violations of the right of the indigenous peoples to own, develop, control and use their traditional homelands and resources in the name of wildlife preservation.

The Committee recommends that the State party take stricter measures to combat discrimination against indigenous peoples, in line with its general recommendation XXIII on the right of indigenous peoples...It further invites the State party to consider acceding to ILO Convention No. 169.

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- Suriname, CERD, A/59/18 (2004) 36 at para. 190.

190. The Committee is concerned that, more than 10 years after the 1992 Peace Accord, the State party has not adopted an adequate legislative framework to govern the legal recognition of the rights of indigenous and tribal peoples (Amerindians and Maroons) over their lands, territories and communal resources.

While noting the principle set forth in article 41 of the Constitution that natural resources are the property of the nation and must be used to promote economic, social and cultural development, the Committee points out that this principle must be exercised consistently with the rights of indigenous and tribal peoples. It recommends legal acknowledgment by the State party of the rights of indigenous and tribal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources.

- Nigeria, CERD, A/60/18 (2005) 54 at para. 294.

294. The Committee is deeply concerned about the adverse effects on the environment of ethnic communities through large-scale exploitation of natural resources in the Delta Region and other River States, in particular, the Ogoni areas. It is concerned at the State party's failure to engage in meaningful consultation with the concerned communities, and about the deleterious effects of the oil production activities on the local infrastructure, economy, health and education. In this regard, the Committee also notes with concern that the Land Use Act of 1978 and the Petroleum Decree of 1969 are contrary to the provisions of the Convention. Furthermore, the Committee is alarmed at the reports of assaults, use of excessive force, summary executions and other abuses against members of local communities by law enforcement officers as well as by security personnel employed by petroleum corporations (arts. 2 and 5).

In the light of general recommendation XXIII (1997) on the rights of indigenous peoples, the Committee urges the State party to take urgent measures to combat "environmental racism" and degradation. In particular, it recommends that the State party repeal the Land Use Act of 1978 and the Petroleum Decree of 1969 and the adoption of a legislative framework which clearly sets forth the broad principles governing the exploitation of the land, including the obligation to abide by strict environmental standards as well as fair and equitable revenue distribution. The Committee reiterates that along with the right to exploit natural resources there are specific, concomitant obligations towards the local population, including effective and meaningful consultation. It further urges the State party to conduct full and impartial investigations of cases of alleged human rights violations by law enforcement officials and

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by private security personnel, institute proceedings against perpetrators and provide adequate redress to victims and/or their families.

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

382. While the Committee takes note of the State party's efforts to demarcate indigenous lands, such as the promulgation of the Indigenous Peoples Habitat and Lands, Demarcation and Protection Act, it is concerned that the effective ownership and use of indigenous lands and resources continue to be threatened and restricted by repeated aggression from individuals and private groups against indigenous peoples, in order to move them from their land.

In the light of general recommendation XXIII on the rights of indigenous peoples, the Committee recommends that the State party take measures to recognize and protect the rights of indigenous peoples to own, develop, control and use their lands, territories and resources...

ICCPR

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

(15) The Committee is concerned at the limited extent to which the Sami Parliament can have a significant role in the decision-making process on issues affecting the traditional lands and economic activities of the indigenous Sami people, such as projects in the fields of hydroelectricity, mining and forestry, as well as the privatization of land (articles 1, 25 and 27 of the Covenant).

The State party should take steps to involve the Sami by giving them greater influence in decision-making affecting their natural environment and their means of subsistence.

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

(16) The Committee welcomes the adoption of the Indigenous Peoples Rights Act (IPRA) in 1997 and the subsequent establishment of the National Commission on Indigenous Peoples (NCIP), but remains concerned about the lack of effective implementation of the legislation. The Committee welcomes the positive measures noted by the delegation, but considers their scope to be limited. It is further concerned at the human rights implications for indigenous groups of economic activities, such as mining operations.

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The State party should ensure effective enforcement of the above legislation and ensure that indigenous peoples' land and resource rights enjoy adequate protection in relation to mining and other competing usage, and that the capacity of the National Commission on Indigenous Peoples is strengthened. Positive measures should be expanded to include land rights issues.

- Colombia, ICCPR, A/59/40 vol. I (2004) 35 at para. 67(20).

(20) The Committee expresses its concern about the continued discrimination against indigenous and minority communities. The Committee is also concerned about the lack of forums for consultation with representatives of the communities with regard to the distribution of land to the indigenous peoples. The Committee is also concerned about the lack of guarantees with respect to the exercise by the indigenous communities of the right to property, given the existence of projects to develop and exploit resources that could affect those communities.

The State party should guarantee the full enjoyment of the rights of persons belonging to minorities which are set out in the Covenant, in particular with respect to the distribution of land and natural resources, through effective consultations with representatives of the indigenous communities.

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

(21) The Committee is concerned at the lack of legal recognition and guarantees for the protection of indigenous and tribal rights to land and other resources. It regrets that logging and mining concessions in many instances were granted without consulting or even informing indigenous and tribal groups, in particular the Maroon and Amerindian communities. It also notes allegations that mercury has been released into the environment in the vicinity of such communities, which continues to threaten the life, health and environment of indigenous and tribal peoples. The latter are also said to be victims of discrimination in employment and education, and generally with respect to their participation in other areas of life (arts. 26 and 27).

The State party should guarantee to members of indigenous communities the full enjoyment of all the rights recognized by article 27 of the Covenant, and adopt specific legislation for this purpose. A mechanism to allow for indigenous and tribal peoples to be consulted and to participate in decisions that affect them should be established. The State party should take the necessary steps to prevent mercury poisoning of waters, and thereby of inhabitants, in the interior of the State party's territory.

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

(17) The Committee regrets that it has not received a clear answer concerning the rights of the Sami as an indigenous people (Constitution, sect. 17, subsect. 3), in the light of article 1 of the Covenant. It reiterates its concern over the failure to settle the question of Sami rights to land ownership and the various public and private uses of land that affect the Sami's traditional means of subsistence - in particular reindeer breeding - thus endangering their traditional culture and way of life, and hence their identity.

The State party should, in conjunction with the Sami people, swiftly take decisive action to arrive at an appropriate solution to the land dispute with due regard for the need to preserve the Sami identity in accordance with article 27 of the Covenant. Meanwhile it is requested to refrain from any action that might adversely prejudice settlement of the issue of Sami land rights.

- Morocco, ICCPR, A/60/40 vol. I (2004) 35 at para. 84(8).

(8) The Committee remains concerned about the lack of progress on the question of the realization of the right to self-determination for the people of Western Sahara (Covenant, art. 1).

The State party should make every effort to permit the population groups concerned to enjoy fully the rights recognized by the Covenant.

- Mauritius, ICCPR, A/60/40 vol. I (2005) 52 at para. 88(5).

(5) The Committee takes note of the continuing dispute between the State party and the United Kingdom Government with respect to the legal status of the Chagos Archipelago, whose population was removed to the main island of Mauritius and other places after 1965 (Covenant, art. 1).

The State party should make every effort to enable the population concerned who were removed from these territories to fully enjoy their rights under the Covenant.

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

(24) The Committee expresses its concern about the structural discrimination by the State party against minority communities, in particular the Highlanders with regard to citizenship,

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

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

ICESCR

- Russian Federation, ICESCR, E/2004/22 (2003) 64 at paras. 453 and 481.

453. The Committee is concerned about the precarious situation of indigenous communities in the State party, affecting their right to self-determination under article 1 of the Covenant. The Committee notes that the Law of 2001 on Territories of Traditional Natural Resource Use (Small Indigenous Minorities of the North, Siberia and the Russian Far East), which provides for the demarcation of indigenous territories and protection of indigenous land rights, has still not been implemented.

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481. The Committee, recalling the right to self-determination enshrined in article 1 of the Covenant, urges the State party to intensify its efforts to improve the situation of the indigenous peoples and to ensure that they are not deprived of their means of subsistence. The Committee also encourages the State party to ensure the effective implementation of the Law on Territories of Traditional Natural Resource Use.

- Ecuador, ICESCR, E/2005/22 (2004) 39 at paras. 278 and 301.

278. The Committee is concerned that, although the Constitution recognizes the rights of

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indigenous communities to hold property communally and to be consulted before natural resources are exploited in community territories, these rights have regretfully not been fully implemented in practice. The Committee is deeply concerned that natural extracting concessions have been granted to international companies without the full consent of the communities concerned. The Committee is also concerned about the negative health and environmental impacts of natural resource extracting companies' activities at the expense of the exercise of land and culture rights of the affected indigenous communities and the equilibrium of the ecosystem.

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301. The Committee strongly urges the State party to ensure that indigenous people participate in decisions affecting their lives. The Committee particularly requests that the State party consult and seek the consent of the indigenous people concerned prior to the implementation of natural resources-extracting projects and on public policy affecting them, in accordance with ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries. The Committee strongly recommends that the State party implement legislative and administrative measures to avoid violations by transnational countries of environmental laws.

- Norway, ICESCR, E/2006/22 (2005) 48 at para. 353.

353. The Committee urges the State party to ensure that the Finnmark Bill, currently under consideration by Parliament, gives due regard to the rights of the Sami people to participate in the management and control of natural resources in Finnmark County...

CRC

- Nicaragua, CRC, CRC/C/150 (2005) 132 at paras. 665 and 666.

665. The Committee notes with concern that, despite constitutional recognition of indigenous customary rights, indigenous communities still suffer from institutional neglect, historic abandonment and indiscriminate pillaging of natural resources, especially in the Caribbean region.

666. The Committee recommends that the State party pursue measures to effectively address the gap in life opportunities of indigenous children, and take adequate measures in order to provide protection for the rights of indigenous children as protected in the Constitution, taking due account of the recommendations adopted by the Committee at its day of general discussion on the rights of indigenous children in September 2003.