

THOUGHT, CONSCIENCE AND RELIGION - FREEDOM OF

IV. CONCLUDING OBSERVATIONS

CERD

- Sudan, CERD, A/49/18 (1994) 68 at para. 473.

Concern is expressed over the application of legal guarantees in actual practice to prevent racial discrimination with respect to a number of fundamental freedoms, including the right to choose and to change one's religion.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/51/18 (1996) 35 at para. 230.

The issue of religious discrimination, in connection with anti-Muslim sentiment, is of special concern. Discrimination against Muslims may be closely related to questions of race and ethnicity, but no legislation is in place to deal effectively with this type of discrimination.

- China, CERD, A/51/18 (1996) 57 at paras. 404 and 417.

Paragraph 404

Considering how a distinctive religion is essential to the identity of several minority nationalities, concern is expressed with regard to the actual enjoyment of the right to freedom of religion in the State, particularly in the Muslim parts of Xinjiang and in Tibet, including the preservation of places of worship and the exercise of religious rights by members of all ethnic groups.

Paragraph 417

The Government is encouraged to avoid any restriction on the exercise of religious rights of the members of minority nationalities.

- Pakistan, CERD, A/52/18 (1997) 28 at para. 181.

While religious minorities as such do not fall under the scope of the Convention, it is noted that religious differences may coincide with ethnic differences, and the Committee therefore welcomes the institutions and measures that have been established to promote and protect minority rights.

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- Finland, CERD, A/55/18 (2000) 41 at para. 219.

The increasing number of racist acts is of concern. It is noted with concern that a significant percentage of Finns declare themselves to be racist or partially racist and are opposed to the practice of Islam by immigrants (refugees). The State party is invited to strengthen measures to promote tolerance and combat prejudices, particularly in the fields of teaching, education, culture and information.

- Georgia, CERD, A/56/18 (2001) 24 at para. 92.

Concern is expressed that the legislation currently in force does not fully cover the requirements of article 4 of the Convention. Concern is expressed at the absence of provisions explicitly banning the advocacy of national, racial and religious hatred that constitutes incitement to discrimination, as well as racist propaganda and organizations. The national legislation currently in force is not sufficient to comply with the requirements of article 4 (b), as the latter covers the offence of promoting and inciting racial discrimination, which may fall short of "fomenting ethnic, local, religious or social strife" as provided for in article 5 (2) of the State party's law on political associations of citizens. It is emphasized that in the absence of the establishment of racial discrimination as a specific offence, it might not be punishable and would be difficult to prosecute. The State party should take steps to ensure that national legislation is in full conformity with article 4 of the Convention.

- Sudan, CERD, A/56/18 (2001) 40 at para. 211.

The Committee reiterates its recommendations to the State party contained in its Decision 5(54) of 19 March 1999 (A/54/18, para. 21(5)), *inter alia*, to implement immediately effective measures to guarantee all Sudanese, without distinction based on race, colour, descent, or national or ethnic origin, freedom of religion, opinion, expression and association; the right to security of person and protection by the State against violence or bodily harm; the right to study and communicate in a chosen language, and the right to enjoy their own culture without interference.

- China, CERD, A/56/18 (2001) 44 at para. 244.

The actual enjoyment of the right to freedom of religion by people belonging to national minorities in the State party remains of concern, particularly in the Muslim part of Xinjiang and in Tibet. A distinctive religion is integral to the identity of several minorities and the State party should review legislation and practices that may restrict the right of persons belonging to minorities to freedom of

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religion.

- Viet Nam, CERD, A/56/18 (2001) 68 at para. 420.

Reports of discrimination in the exercise of religious freedom by minority ethnic groups are of concern.

ICCPR

- Algeria, ICCPR, A/47/40 (1992) 61 at para. 299.

Algeria should put an end as promptly as possible to the exceptional situation which prevails within its borders and allow all the democratic mechanisms to resume their functioning under fair and free conditions. Attention is drawn to the fact that the Covenant does not permit derogation from certain rights even in times of emergency and that, therefore, any excesses relating to, *inter alia*, the right to life, torture and the right to freedom of conscience and expression are violations of the Covenant which should not be allowed to continue.

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

The retention of the classification of persons belonging to any religion, in particular the Jewish faith, as a distinct nationality is without justification. In many areas not covered by new legislation, much depends on the good will of the authorities, with the danger still present that the latter would be unduly influenced by certain attitudes inherited from the past.

- Burundi, ICCPR, A/48/40 vol. I (1993) 16 at para. 79.

The non-conformity of legislation and actual practice with articles 18 and 19 of the Covenant is of special concern.

- Luxembourg, ICCPR, A/48/40 vol. I (1993) 30 at para. 134.

Concern was expressed over the position of religious sects which had not entered into a covenant with the State and which, therefore, were at a disadvantage relative to sects that had done so and were supported by the State. Additionally, it was noted that, under article 27 of the Covenant, ethnic,

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religious and linguistic minorities had a right to their own cultural life and that the exercise of that right needed to be guaranteed and monitored by the State.

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at paras. 253, 256, 262, 263 and 269.

Paragraph 253

In view of the lack of transparency and predictability in the application of Iranian domestic law, it is difficult to determine the extent to which the latter is compatible with the provisions of the Covenant. It is noted that numerous, explicit or implicit, limitations or restrictions associated with the protection of religious values, as interpreted by Iranian authorities, have also seriously impeded the enjoyment of some human rights protected under the Covenant.

Paragraph 256

The fact that a death sentence has been pronounced, without trial, in respect of a foreign writer, Mr. Salman Rushdie, for having produced a literary work and that general appeals have been made or condoned for its execution, even outside the territory of the Islamic Republic of Iran, is condemned. The fact that the sentence was the result of a *fatwa* issued by a religious authority does not exempt the State party from its obligation to ensure to all individuals the rights provided for under the Covenant, in particular articles 6, 9, 14 and 19.

Paragraph 262

The extent of limitations to freedom of expression, assembly and association is of concern. In this connection, contrary to the provisions of articles 18 and 19 of the Covenant, members of certain political parties who did not agree with what the authorities believe to be Islamic thinking or who expressed opinions in opposition to official positions have been discriminated against. Self-censorship also seems to be widespread in the media and severe limitations appear to have been placed upon the exercise of freedom of assembly and of association.

Paragraph 263

The extent of the limitations and restrictions on the freedom of religion and belief is of concern, noting that conversion from Islam is punishable and that even followers of the three recognized religions are facing serious difficulties in the enjoyment of their rights under article 18 of the Covenant. The extent of discrimination against followers of non-recognized religions, notably the Baha'is, whose rights under the Covenant are subject to extremely severe restrictions, is disturbing.

Paragraph 269

The recognition of a religion as a State religion should not result in any impairment of the enjoyment of any of the rights under the Covenant, including articles 18 and 27, nor in any discrimination against

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adherents of other religions or non-believers, since the right to freedom of religion and belief and the prohibition of discrimination cannot be abrogated by the recognition of an official religion or belief. Measures restricting eligibility for government service to members of the predominant religion, or giving economic privileges to such persons, or imposing special restrictions on the practice of other faiths, are incompatible with the prohibition of discrimination based on religion or belief and the guarantee of equal protection under article 26 of the Covenant.

- Ireland, ICCPR, A/48/40 vol. I (1993) 119 at paras. 587 and 607.

Paragraph 587

With respect to articles 18 and 19 of the Covenant, it is of concern that blasphemy could be construed as a threat to public order and deemed a punishable offence.

Paragraph 607

With respect to freedom of expression and the right of access to information, it is noted with concern that the exercise of those rights is unduly restricted under present laws concerning censorship, blasphemy and information on abortion. The Constitutional requirement that the President and judges must take a religious oath excludes some people from holding those offices.

- Egypt, ICCPR, A/48/40 vol. I (1993) 139 at para. 709.

The restrictive legal provisions existing in Egypt with regard to freedom of thought, conscience, religion, assembly and association are of concern. Restrictions not in conformity with article 18 of the Covenant regarding various religious communities or sects, such as Bahai's, are a matter of particular concern. Equally, general concern is expressed at the denial by the Egyptian authorities of the existence in the country of religious or other minorities as well as the existence in certain laws of provisions concerning penalties of imprisonment with compulsory labour for political offences.

- Bulgaria, ICCPR, A/48/40 vol. I (1993) 149 at paras. 746 and 755.

Paragraph 746

More energetic measures have to be taken to eliminate discrimination against ethnic and religious minorities and to encourage tolerance. To that end, a full human rights teaching programme should be set up and effective penalties should be imposed on persons who abuse their authority, particularly law enforcement officials. It is stressed that, under article 27 of the Covenant, minorities should not only have the same economic and political status as other Bulgarian citizens, but should also benefit from special measures of protection.

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Paragraph 755

The remaining restrictions in national laws on human rights should be reviewed and brought into full conformity with the provisions of the Covenant as set forth in articles 18, 19 and 21. Particular attention should be paid to the protection of the rights of persons belonging to national minorities in compliance with article 27 of the Covenant. In the latter regard, positive action should be taken by the Government. The Committee further suggests the establishment of an institution in order to monitor and strengthen the protection of human rights.

- Costa Rica, ICCPR, A/49/40 vol. I (1994) 31 at paras. 158 and 162.

Paragraph 158

With respect to article 18 of the Covenant, the pre-eminent position accorded to the Roman Catholic Church is of concern. The Committee also notes with concern that certain provisions of Costa Rican legislation (the *Ley de Carrera Docente*) confer on the National Episcopal Conference the power to effectively impede the teaching of religions other than Catholicism in public schools and the power to bar non-Catholics from teaching religion in the public school curricula.

Paragraph 162

Steps should be taken to ensure that there is no discrimination in the exercise of the right to religious education, particularly with respect to access to religious teachings other than Catholicism. Current practices which make the selection of religious instructors subject to the authorization of the National Episcopal Conference are not in conformity with the Covenant.

- Jordan, ICCPR, A/49/40 vol. I (1994) 41 at paras. 235 and 242.

Paragraph 235

The shortcomings in the observance of the provisions of article 18 of the Covenant, in particular the restrictions affecting the enjoyment by non-recognized or non-registered religious denominations, including the Baha'i, of their right to freedom of religion or belief are of concern. Concern is also expressed about the practical limitations to the right to have or adopt a religion or belief of one's choice, which should include the freedom to change religion.

Paragraph 242

Further measures need to be taken to guarantee freedom of religion and to eliminate discrimination on religious grounds. In this connection, the State party should take into account the recommendations contained in the Committee's general comment on article 18 of the Covenant.

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- Italy, ICCPR, A/49/40 vol. I (1994) 47 at para. 281.

It is of concern that the State party's definition of minorities is confined to linguistic minorities within its territory and that, consequently, members of other minorities may not enjoy equal protection of their rights under article 27.

- Cyprus, ICCPR, A/49/40 vol. I (1994) 53 at paras. 321 and 330.

Paragraph 321

Concern is expressed over the unfair treatment accorded to conscientious objectors in Cyprus, who are subject to an excessive period of alternative service lasting 42 months, which is not compatible with the provisions of article 18 and 26 of the Covenant, and that persons may also be subject to punishment on one or more occasion for failure to perform military service.

Paragraph 330

The laws concerning conscientious objectors should be amended in order to ensure their fair treatment under the law and to reduce the excessively lengthy period of alternative national service and the possibility of repeated punishment.

- Slovenia, ICCPR, A/49/40 vol. I (1994) 56 at para. 351.

With reference to freedom of conscience and religion, including the issue of religious education, the State party should take into account the Committee's General Comment No. 22 (48) on article 18 of the Covenant.

- Paraguay, ICCPR, A/50/40 vol. I (1995) 42 at para. 212.

It is of concern that the predominant role of the Catholic Church in Paraguay appears to lead to certain *de facto* discrimination against other religions.

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at para. 322.

Concern is expressed at the information in the report, corroborated by cases, that there are incidents and situations which may be conducive to acts of discrimination on ethnic, gender, religious, linguistic or property grounds. It is regretted that the appropriate steps have not yet been taken by the authorities to resolve those difficulties and, in particular, to prevent and suppress the advocacy of

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national, racial or religious hatred in conformity with the requirements of article 20 of the Covenant. This situation is particularly alarming in that it may undermine harmonious relations with minorities. In that regard, the Committee regrets that the definition of minorities under the Declaration of the Rights of the Nationalities of Ukraine does not conform fully with article 27 of the Covenant, which grants protection to persons belonging to all ethnic, religious or linguistic minorities, and not only to those belonging to "national" minorities.

- Russian Federation, ICCPR, A/50/40 vol. I (1995) 65 at paras. 382, 400 and 401.

Paragraph 382

It is of concern that conscientious objection to military service, although recognized under article 59 of the Constitution, is not a practical option under Russian law and note is taken in this regard of the draft law on alternative service before the Federal Assembly. The possibility that such alternative service may be made punitive, either in nature or in length of service, is of concern.

Paragraph 400

Every effort should be made to ensure that reasonable alternatives to military service are available that are not punitive in nature or in length of service. All charges brought against conscientious objectors to military service should be dropped.

Paragraph 401

The national legislation should be amended to reflect the broad concept of minorities contained in articles 2, 26 and 27 of the Covenant, which prohibit discrimination on the basis of race, colour, sex, opinion or other status, and further protect the rights not only of "national minorities" but also of ethnic, religious and linguistic minorities.

- Estonia, ICCPR, A/51/40 vol. I (1996) 19 at paras. 112 and 125.

Paragraph 112

It is of concern that the conditions for appointment to or employment in any position in a State or local government agency, in particular the automatic exclusion of persons unable to satisfy the requirements of the written oath of conscience regarding their previous activities (under the former regime), may give rise to an unreasonable restriction on the right of access to public service without discrimination.

Paragraph 125

The State party should review the Law on the Implementation of the Constitution with regard to the obligation to take an oath of conscience, with a view to bringing the Law fully into line with non-

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discrimination provisions and article 25 of the Covenant and providing for the right to an effective remedy against a decision not to appoint or to dismiss a person in case of refusal to take such an oath.

- Spain, ICCPR, A/51/40 vol. I (1996) 24 at paras. 181 and 186.

Paragraph 181

Individuals cannot claim the status of conscientious objectors once they have entered the armed forces, which does not seem to be consistent with the requirements of article 18 of the Covenant as pointed out in General Comment No. 22 (48).

Paragraph 186

The State party is urged to amend its legislation on conscientious objection so that any individual who wishes to claim the status of conscientious objector may do so at any time, either before or after entering the armed forces.

- Zambia, ICCPR, A/51/40 vol. I (1996) 29 at para. 204.

The requirement to sing the national anthem and salute the flag as a condition of attending a State school, despite conscientious objection, appears to be an unreasonable requirement and to be incompatible with articles 18 and 24 of the Covenant.

- Guatemala, ICCPR, A/51/40 vol. I (1996) 33 at para. 250.

Further measures should be taken to ensure that members of indigenous groups are protected against the prevailing violence within the country and enjoy fully their rights under article 27 of the Covenant, particularly with regard to preservation of their cultural identity, language and religion.

See also:

- Bolivia, ICCPR, A/52/40 vol. I (1997) 35 at para. 225.

- Germany, ICCPR, A/52/40 vol. I (1997) 32 at para. 186.

It is of concern that membership in certain religious sects as such may, in some Länder of the State party, disqualify individuals from obtaining employment in the public service, which may, in certain circumstances, violate the rights guaranteed in articles 18 and 25 of the Covenant.

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- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at para. 353.

The Committee notes with concern that every Lebanese citizen must belong to one of the religious denominations officially recognized by the Government, and that this is a requirement in order to be eligible to run for public office. This practice does not comply with the requirements of article 25 of the Covenant.

- Slovakia, ICCPR, A/52/40 vol. I (1997) 58 at para. 382.

The Committee notes that Act No. 308/1991 Coll. on freedom of religion and the status of churches and religious societies and Acts No. 83/1990 Coll., 300/1990 Coll. and 62/1993 Coll. on the association of citizens require that churches, religious societies, associations and non-governmental organizations be registered in order to function freely and/or to receive subsidies from the State. Given that prerequisites to this registration are very restrictive, some churches and religious or other associations are excluded from being legally recognized. Therefore, the Committee recommends that all necessary measures be adopted in order to amend the relevant legislation so as to bring it into conformity with articles 18 and 22 of the Covenant.

- France, ICCPR, A/52/40 vol. I (1997) 62 at para. 406.

It is of concern that in order to exercise the right to conscientious objection to military service, which is a part of freedom of conscience under article 18 of the Covenant, the application must be made in advance of the conscript's entry into military service and that the right cannot be exercised thereafter. Moreover, the Committee notes that the length of alternative service is twice as long as military service and that this may raise issues of compatibility with article 18 of the Covenant.

- Senegal, ICCPR, A/53/40 vol. I (1998) 13 at para. 66.

The State party should take legal and practical steps to recognize and protect religious and ethnic minorities, with a view to ensuring the rights guaranteed under article 27 of the Covenant. The Government of Senegal should take into consideration the Committee's General Comment No. 23 on this matter.

- Iraq, ICCPR, A/53/40 vol. I (1998) 18 at para. 109.

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The situation of members of religious and ethnic minorities, as well as other groups which are the subject of discrimination in Iraq, in particular the Shi'ite people in the southern marshes and the Kurds, is of concern. The lack of information on the situation of other minorities, such as the Turkeman, Assyrian, Chaldean and Christian minorities, and on the enjoyment of their rights under articles 26 and 27 of the Covenant, is also regretted. In this connection, attention is called to General Comment No. 23 (50) on article 27 of the Covenant. Measures should be taken to ensure full equality of rights for members of all religious groups as well as ethnic and linguistic minorities.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 134.

The documented cases of official action which interferes with the rights of non-Muslim religious denominations and groups to practise their religion and to carry out peaceful educational activities is regretted. A mechanism should be established to protect minority religious groups from discrimination and action seeking to impede their freedom to teach and practise their religious beliefs.

- Belarus, ICCPR, A/53/40 vol. I (1998) 26 at para. 152.

A law exempting conscientious objectors from compulsory military service and providing for alternative civil service of equivalent length should be passed at an early date.

- Lithuania, ICCPR, A/53/40 vol. I (1998) 30 at paras. 175 and 176.

Paragraph 175

The registration requirements for religious organizations, as well as distinctions made between different religious groups in this connection, could result in discrimination on religious grounds in violation of the right to freedom from discrimination on the ground of religion. There should be no discrimination in law or in practice in the treatment of different religions in violation of articles 18 and 26 of the Covenant.

Paragraph 176

The conditions for alternative service available to persons who have a conscientious objection to military service, in particular the grounds for establishing the right to perform alternative service and its length, are matters of concern. Therefore, the grounds and eligibility for performing, without discrimination, alternative service on grounds of conscience or religious belief should be clarified to ensure that the right to freedom of conscience and religion is respected.

- Cyprus, ICCPR, A/53/40 vol. I (1998) 33 at para. 197.

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The discriminatory treatment accorded to conscientious objectors in Cyprus, who may be subject to punishment on one or more occasions for failure to perform military service, is of concern. The proposed new law concerning conscientious objectors should ensure fair treatment under the law and eradicate lengthy imprisonment as a form of punishment.

- Zimbabwe, ICCPR, A/53/40 vol. I (1998) 35 at para. 210.

Legislative and other measures necessary to correct the persistence of behavioural attitudes in the society, as well as cultural and religious practices which impede the full enjoyment of human rights, should be taken.

- Finland, ICCPR, A/53/40 vol. I (1998) 40 at para. 271.

The law that grants Jehovah's Witnesses preferential treatment as compared with other groups of conscientious objectors should be reviewed to bring it into full conformity with article 26 of the Covenant.

- Israel, ICCPR, A/53/40 vol. I (1998) 45 at paras. 324 and 325.

Paragraph 324

Preference given to the Jewish religion in the allocation of funding for religious bodies, to the detriment of Muslims, Christians, Druze and other religious groups, is of concern. Regulations and criteria for funding should be published and applied to all religious groups on an equal basis.

Paragraph 325

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

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- Belgium, ICCPR, A/54/40 vol. I (1999) 26 at para. 91.

The procedures for recognizing religions and the rules for public funding of recognized religions raise problems under articles 18, 26 and 27 of the Covenant.

- Armenia, ICCPR, A/54/40 vol. I (1999) 29 at paras. 114 and 115.

Paragraph 114

The Committee regrets the lack of legal provision for alternatives to military service in case of conscientious objection. The Committee deplores the conscription of conscientious objectors by force and their punishment by military courts, and the instances of reprisals against their family members.

Paragraph 115

The Committee is concerned that registration of religions is required and that the number of followers required for registration has been increased. Non-recognized religions are discriminated against in their entitlement to own private property and to receive foreign funds.

- Austria, ICCPR, A/54/40 vol. I (1999) 42 at para. 192.

Legal provisions in Austria relating to the recognition of religions and the benefits accorded to recognized religions may result in discrimination contrary to articles 18 and 26 of the Covenant.

- Chile, ICCPR, A/54/40 vol. I (1999) 44 at para. 220.

The State party should amend the law so as to give equal status to all religious communities that exist in Chile.

- Mexico, ICCPR, A/54/40 vol. I (1999) 61 at para. 332.

The State party should ensure that persons required to perform military service can invoke conscientious objection as grounds for exemption.

- Poland, ICCPR, A/54/40 vol. I (1999),65 at para. 357.

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Mechanisms for monitoring new religious movements may pose a threat to freedom of religion.

- Romania, ICCPR, A/54/40 vol. I (1999) 68 at para. 376.

Legislation should be amended to provide for conscientious objection that is consistent with articles 18 and 26 of the Covenant.

- Norway, ICCPR, A/55/40 vol. I (2000) 22 at para. 78.

The inclusion of section 2 of the Constitution, which provides that individuals professing the Evangelical Lutheran religion are bound to bring up their children in the same faith is incompatible with the Covenant. Section 2 should be modified to comply with article 18 of the Covenant.

See also:

- Norway, ICCPR, A/49/40 vol. I (1994) 21 at para. 93.

- Morocco, ICCPR, A/55/40 vol. I (2000) 24 at para. 117.

The guarantee of freedom of religion or belief requires religious freedom to be respected in regard to persons of all religious convictions, and not restricted to monotheistic religions, and the right to change religion should not be restricted directly or indirectly.

- United Kingdom of Great Britain and Northern Ireland (Jersey, Guernsey and the Isle of Man), ICCPR, A/55/40 vol. I (2000) 47 at para. 310.

Criminal Code provisions which make blasphemy a misdemeanor should be repealed.

- Kyrgyzstan, ICCPR, A/55/40 vol. I (2000) 57 at paras. 410 and 411.

Paragraph 410

That conscientious objection to military service is allowed only for members of a registered religious organization whose teachings prohibit the use of arms is of concern. That the State party has not sought to justify why the provision on alternative service entails a period of service twice as long as that required of military conscripts, and why persons of higher education serve for a considerably

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lesser period in the military as well as in alternative service (arts. 18, 26), is regretted.

Paragraph 411

Conscientious objection should be provided for in law in a manner that is consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protects freedom of conscience of non-believers. The State party should fix the periods of military service and alternative service on a non-discriminatory basis.

- Ireland, ICCPR, A/55/40 vol. I (2000) 61 at paras. 443 and 450.

Paragraph 443

Exemptions under the Employment Equality Act, which allow religious bodies directing hospitals and schools to discriminate in certain circumstances on the ground of religion in employing persons whose functions are not religious, may result in discrimination contrary to article 26 of the Covenant.

Paragraph 450

The government should reform constitutional provisions requiring judges to make a declaration with religious references (art. 18).

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 483, 484, 494 and 495.

Paragraph 483

The naturalization of Muslim applicants exclusively is of concern. That the legal consequence of a conversion from Islam to another religion may result in the loss of Kuwaiti nationality is also of concern.

Paragraph 484

The laws on naturalization and nationality should be amended to ensure that their application does not entail discrimination on any of the grounds enumerated in article 26 of the Covenant.

Paragraph 494

The existence of compulsory military service and the fact that Kuwaiti law does not contain any provision on conscientious objection is of concern.

Paragraph 495

In order to implement article 18 of the Covenant, the State party should reflect in its legislation the situation of persons who believe that the use of armed force conflicts with their convictions, and establish for these cases an alternative civilian service.

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- Argentina, ICCPR, A/56/40 vol. I (2001) 38 at para. 74(16).

The preferential treatment, including financial subsidies, accorded to the Catholic Church over other religious denominations constitutes religious discrimination under article 26 of the Covenant.

- Venezuela, ICCPR, A/56/40 vol. I (2001) 49 at paras. 77(25) and 77(26).

Paragraph 77(25)

The privileged status of the Roman Catholic Church and possible adverse effects on other religions is of concern. The State party should guarantee that no religious community in Venezuela will suffer discrimination.

Paragraph 77(26)

There is no provision in domestic law for conscientious objection to military service, which is legitimate pursuant to article 18 of the Covenant. The State party should see to it that individuals required to perform military service can plead conscientious objection and perform alternative service without discrimination.

See also:

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at para. 78(21).

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at para. 79(24).

Provisions of the Freedom of Conscience and Religion Organisations Act that require religious organisations and associations to be registered to be entitled to manifest their religion and beliefs are of concern. Also of concern is article 240 of the Penal Code, which penalizes the failure of leaders of religious organisations to register their statutes. It is strongly recommended that the State party abolish the said provisions, which are not in conformity with the provisions of article 18, paragraph 1 and 3, of the Covenant. Criminal procedures initiated on the basis of these provisions should be discontinued and convicted persons pardoned and compensated.

- Czech Republic, ICCPR, A/56/40 vol. I (2001) 83 at para. 83(22).

Changes in the religious registration requirements are noted, but the potentially different treatment

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in the law accorded to different religions on the basis of registration and non-registration remains of concern (arts. 18, 26).

- Democratic People's Republic of Korea, ICCPR, A/56/40 vol. I (2001) 98 at para. 86(22).

It is noted with regret that the State party was unable to provide up-to-date information about religious freedoms in the State party. As only 40,000 citizens of the State party (i.e., less than 0.2 per cent of the population), grouped into four religious communities, are said to be "believers", and in the light of the available information that religious practice is repressed or strongly discouraged, serious concern is expressed that the State party's practice in this respect does not meet the requirements of article 18 of the Covenant.

ICESCR

- Islamic Republic of Iran, ICESCR, E/1994/23 (1993) 32 at para. 126.

The situation of certain minority groups, particularly discrimination on religious grounds in the educational system, is of concern and has not been satisfactorily answered to in the course of the present session.

- Iraq, ICESCR, E/1995/22 (1994) 32 at para. 136.

The destruction of the cultural heritage of religious communities and minorities is alarming.

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1998/22 (1997) 56 at para. 301.

Concern is expressed that the educational structure in Northern Ireland is heavily segregated, with most Protestants attending Protestant schools and most Catholics attending Catholic schools and only approximately 2 per cent of the school population attending integrated schools. The current government policy, which appears to consist of a willingness to consider the conversion of existing Protestant or Catholic schools into integrated schools if it is the wish of the majority in a given school, is ineffective and likely to preserve the status quo.

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- Poland, ICESCR, E/1999/22 (1998) 32 at para. 149.

It is noted that under the new Constitution, Poland is a secular State with no formal role attributed to any religious denomination. Nevertheless, it is of concern that policies and decisions of a social nature seem to be excessively influenced by particular religious considerations and do not take adequate account of the existence of minority religious groups.

- Israel, ICESCR, E/1999/22 (1998) 43 at para. 236.

It is of concern that excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens. It is noted with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, *inter alia*, of lack of access to housing, water, electricity and health care and their lower level of education. It is also noted with concern that despite the fact that the Arabic language has official status in law, it is not given equal importance in practice.

- Tunisia, ICESCR, E/2000/22 (1999) 36 at para. 177.

The State party should take the necessary measures to ensure that sentences of forced labour may not be imposed for crimes of conscience or for participation in strikes declared to be illegal.

- Sudan, ICESCR, E/2001/22 (2000) 57 at para. 310.

Concern is expressed that some restrictions on the freedoms of religion, expression and association and peaceful assembly still exist, thereby hampering the enjoyment of economic, social and cultural rights by many Sudanese.

- Senegal, ICESCR, E/2002/22 (2001) 61 at para. 340.

Effective measures are not being taken, legal or otherwise, to recognize and protect religious and ethnic minorities with a view to ensuring that their rights are guaranteed under the Covenant.

- Ukraine, ICESCR, E/2002/22 (2001) 78 at para. 503.

THOUGHT, CONSCIENCE AND RELIGION - FREEDOM OF

Legal provisions should be strengthened with respect to the prohibition of discrimination in accordance with article 2 (2) of the Covenant, in particular on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

CEDAW

- Israel, CEDAW, A/52/38/Rev.1 part II (1997) 87 at para. 157.

Regret is expressed over the fact that women cannot become religious judges and that the religious laws that to a considerable degree govern family relations discriminate against women.

- Italy, CEDAW, A/52/38/Rev.1 part II (1997) 106 at para. 353.

The limited availability of abortion services for women in southern Italy, as a result of the high incidence of conscientious objection among doctors and hospital personnel, is of concern.

- Bangladesh, CEDAW, A/52/38/Rev.1 part II (1997) 117 at para. 447.

The reported imposition of *fatwas*, using religious justification to punish women, are of serious concern.

- Croatia, CEDAW, A/53/38/Rev.1 part I (1998) 10 at para. 109.

Information regarding the refusal, by some hospitals, to provide abortions on the basis of conscientious objection of doctors is of concern as this is an infringement of women's reproductive rights.

- Dominican Republic, CEDAW, A/53/38/Rev.1 part I (1998) 28 at para. 351.

Steps should be taken to ensure the *de facto* separation of the secular and religious spheres, with a view to ensuring the full implementation of the Convention.

- Algeria, CEDAW, A/54/38/Rev.1 part I (1999) 12 at paras. 71 and 72.

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Paragraph 71

The constant citing of religious principles and cultural specificities to justify why the status of women has not kept up with the overall advances of society is of concern.

Paragraph 72

Measures should be taken to ensure that religious and cultural patterns do not inhibit the development of women's position in Algerian society.

- India, CEDAW, A/55/38 part I (2000) 7 at paras. 60 and 61.

Paragraph 60

Steps have not been taken to reform the personal laws of different religious and ethnic groups, in consultation with them, so as to conform with the Convention. The Government's policy of non-intervention perpetuates sexual stereotypes, son preference and discrimination against women.

Paragraph 61

The Government is urged to withdraw its declaration to article 16 (1) of the Convention and to work with and support women's groups as members of the community in reviewing and reforming personal laws of different religious and ethnic groups. The Government should follow the directive principles in the Constitution and Supreme Court decisions and enact a uniform civil code which different ethnic and religious groups may adopt.

- Singapore, CEDAW, A/56/38 part II (2001) 51 at para. 74.

Recognizing that the pluralistic nature of Singapore society and its history call for sensitivity to the cultural and religious values of different communities, nevertheless it is necessary to clarify the fact that articles 2 and 16 are the very essence of obligations under the Convention. Since some reforms have already been introduced in Muslim personal law, this process of reform should be continued in consultation with members of different ethnic and religious groups, including women. Reforms in other countries with similar legal traditions should be studied with a view to reviewing and reforming personal laws so that they conform with the Convention, and to withdrawing these reservations.

CAT

THOUGHT, CONSCIENCE AND RELIGION - FREEDOM OF

- Cuba, CAT, A/53/44 (1998) 12 at para. 116.

Complaints made that certain categories of persons referred to as dissidents are targeted and their fundamental rights violated without having satisfactory means of redress are of concern.

- Georgia, CAT, A/56/44 (2001) 35 at paras. 81 and 82.

Paragraph 81

The instances of mob violence against religious minorities, in particular Jehovah's witnesses, are of concern, including the failure of the police to intervene and take appropriate action despite the existence of the legal tools to prevent and prosecute such acts and the risk of this apparent impunity resulting in such acts becoming widespread.

Paragraph 82

In order to ensure that perpetrators of torture do not enjoy impunity, urgent steps should be taken to: i) establish an effective and independent complaints mechanism; ii) make provisions for the systematic review of all convictions based upon confessions that may have been obtained through torture; iii) make adequate provisions for compensation and rehabilitation of victims of torture.

CRC

- Indonesia (preliminary), CRC, CRC/C/20 (1993) 13 at paras. 44 and 50.

Paragraph 44

Concern is expressed over the fact that the rights contained in article 14 of the Convention are not fully protected, in spite of the fact that they are non-derogable.

Paragraph 50

The implementation of article 14 of the Convention, as it relates to freedom of religion, is of concern. It is important to underline the fact that limiting official recognition to certain religions may give rise to practices of discrimination.

- Yugoslavia (Serbia and Montenegro), CRC, CRC/C/50 (1996) 17 at para. 91.

The absence of pluralism in the activities of the major organs of the mass media, limiting the freedom of the child to receive information and the freedom of thought and conscience, is a concern.

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- Republic of Korea, CRC, CRC/C/50 (1996) 26 at para. 163.

Insufficient measures have been adopted, including those of a legal nature, to ensure effective implementation of the civil rights and fundamental freedoms of children (such as in relation to the right to a nationality, freedom of expression, thought, conscience and religion, as well as to freedom of association and peaceful assembly). The threats to national security invoked by the Government have hampered the enjoyment of such fundamental freedoms.

- China, CRC, CRC/C/54 (1996) 18 at para. 124.

Violations of human rights of the Tibetan religious minority is a deep concern. State intervention in religious principles and procedures seems to be most unfortunate for the whole generation of boys and girls among the Tibetan population.

- Myanmar, CRC, CRC/C/62 (1997) 25 at paras. 150 and 171.

Paragraph 150

Of particular concern is the fact that children considered poor are channelled towards monastic Buddhist schools and are offered no alternative educational opportunity. This might challenge the right to freedom of religion for non-Buddhist children who are enrolled in those schools.

Paragraph 171

An alternative education choice should be given to non-Buddhist and poor children.

- South Africa, CRC, CRC/C/94 (2000) 81 at para. 454.

It is noted that domestic legislation guarantees the cultural, religious and linguistic rights of children, particularly as regards education and adoption procedures. That customary law and traditional practice continue to threaten the full realization of the rights guaranteed to children belonging to minority groups is a concern. All appropriate measures should be undertaken to ensure that the rights of children belonging to minority groups, including the Khoi-Khoi and San, are guaranteed, particularly those rights concerning culture, religion, language and access to information.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 27, 43, 56 and 57.

Paragraph 27

THOUGHT, CONSCIENCE AND RELIGION - FREEDOM OF

Noting the universal values of equality and tolerance inherent in Islam, and concurring with the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, the Committee observes that narrow interpretations of Islamic texts by State authorities are impeding the enjoyment of many human rights protected under the Convention.

Paragraph 43

Concurring with the findings of the Human Rights Committee (CCPR/C/79/Add.25) and the Committee on Economic, Cultural and Social Rights (E/C.12/1993/7), and in accordance with article 2 of the Convention, it is recommended that the State party take effective measures to prevent and eliminate discrimination on the grounds of sex and birth in all fields of civil, economic, political, social and cultural life. The State party should make every effort to enact or rescind, where necessary, civil and criminal legislation to prohibit any such discrimination. In this regard, the State party is encouraged to consider the practices of other States that have been successful in reconciling fundamental rights with Islamic texts. The State party should take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family. Religious leaders should be mobilized to support such efforts.

Paragraph 56

The human rights of children cannot be realized independently from the human rights of their parents, or in isolation from society at large. In light of article 14 of the Convention, the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55), Commission on Human Rights resolution 2000/33, the Human Rights Committee's General Comment 22, and concurring with the findings of the Human Rights Committee (CCPR/C/79/Add.25) and the Committee on Economic, Social and Cultural Rights (E/C.12/1993/7), the Committee is concerned about the restrictions on the freedom of religion, and that restrictions on the freedom to manifest one's religion do not comply with the requirements outlined in article 14, paragraph 3. The situation of members of non-recognized religions is a concern, including the Baha'is, who experience discrimination in areas of, *inter alia*, education, employment, travel, housing and the enjoyment of cultural activities.

Paragraph 57

Effective measures should be taken to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life. The State party should make every effort to enact or rescind, where necessary, legislation to prohibit any such discrimination, and take all appropriate measures, including public education campaigns, to combat intolerance on the grounds of religion or other belief. The Committee endorses the recommendations made by the Special Rapporteur on the question of religious intolerance following his visit to the State party (E/CN.4/1996/95/Add.2) and recommends that the State party implement them fully.

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See also:

- Egypt, CRC, CRC/C/103 (2001) 36 at para. 201.
- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 380, 405 and 406.

- Jordan, CRC, CRC/C/97 (2000) 31 at paras. 158, 159 and 185.

Paragraph 158

Concern is expressed that the broad and imprecise nature of the reservation to article 14 potentially gives rise to infringements of the freedoms of thought, conscience and religion, and raises questions of its compatibility with the object and purpose of the Convention.

Paragraph 159

The State party should study its reservation to article 14 with a view to narrowing it, taking account of the Human Rights Committee's General Comment 22 and recommendations, and eventually, to withdraw it in accordance with the Vienna Declaration and Programme of Action.

Paragraph 185

Noting that article 15 of the Constitution provides for freedom of opinion, respect for the views of the child remains limited owing to traditional societal attitudes towards children in schools, the courts, and especially within the family.

- Djibouti, CRC, CRC/C/97 (2000) 96 at paras. 518 and 519.

Paragraph 518

The broad and imprecise nature of the general declaration made by the State party upon ratification of the Convention, which amounts to a reservation, potentially negates many of the Convention's provisions and raises concerns as to its compatibility with the object and purpose of the Convention. Indications that the declaration may have been intended primarily to address only the issue of the right of the child to freedom of religion and that efforts will be made to review the situation are welcomed.

Paragraph 519

In the light of the Vienna Declaration and Programme of Action, and bearing in mind the provisions of article 27 of the Vienna Convention on the Law of Treaties, the State party is encouraged to review the general nature of its declaration to the Convention on the Rights of the Child with a view to its withdrawal.

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- Saudi Arabia, CRC, CRC/C/103 (2001) 71 at para. 391.

The importance of setting up an independent mechanism with a mandate to regularly monitor and evaluate progress in the implementation of the Convention is emphasized. The guarantees of non-discrimination, religious freedom and due process laid down in domestic law without independent and effective mechanisms to monitor their application do not on their own ensure the enjoyment of these and other fundamental rights.